

LEGISLATIVE COUNCIL  
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FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF  
1975

AUGUST 1, 1975.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. CLAY, from the Committee on Post Office and Civil Service,  
submitted the following

REPORT

together with

MINORITY, ADDITIONAL, AND SEPARATE VIEWS

[To accompany H.R. 8617]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

AMENDMENTS

The amendments are as follows:

Page 4, line 22, after "measure" insert "in any election".

Page 5, line 4, strike out "purposes" and insert "the purpose".

Page 6, line 14, insert "(a)" before "An".

Page 6, immediately after line 22, insert the following:

"(b) The provisions of subsection (a) of this section shall not apply to—

"(1) the President and the Vice President; or

"(2) an individual—

"(A) paid from the appropriation for the White House Office,

"(B) paid from funds to enable the Vice President to provide assistance to the President, or

"(C) on special assignment to the White House Office, unless such individual holds a career or career-conditional appointment in the competitive service.

Page 7, line 6, before the period insert "for the purpose of allowing such employee to engage in activities relating to such candidacy".

Page 7, line 13, strike out "section" and insert "sections".

Page 7, line 13, strike out "8324" and insert "7324";

Page 7, line 25, strike out "House" and insert "Houses".

Page 11, line 13, strike out "affording" and insert "specifying".

Page 17, line 20, strike out "Education" and insert "Educational".

Page 17, line 24, immediately after the period, insert the following: "The Commission shall inform each employee individually in writing, at least once each calendar year, of such employee's political rights and of the restrictions under this subchapter. The Commission may determine, for each State, the most appropriate date for providing information required by this subsection. Such information, however, shall be provided to employees employed or holding office in any State not later than 60 days before the earliest primary or general election for State or Federal elective office held in such State."

Page 19, in the item relating to section 7330 in the analysis, strike out "Education" and insert "Educational".

Page 20, line 5, after "employee" insert a comma.

Page 20, line 6, after "title 5" insert a comma.

#### EXPLANATION OF AMENDMENTS

The amendment to page 4, line 22, is a technical amendment to conform the language of section 7323(a)(2)(A) to that in section 7324(2).

The amendment to page 5, line 4, is a technical amendment which corrects a typographical error in section 7323(b).

The amendment to page 6, line 14, is a technical amendment made necessary by the committee amendment to section 7325 which added a new subsection (b).

The amendment to page 6, immediately after line 22, inserts a new section 7325(b). The new subsection (b) excludes individuals occupying those positions stated in the amendment, from the prohibitions contained in section 7325 pertaining to engaging in political activity while on duty, in a Government room or building, or while wearing a uniform or official insignia.

The amendment to page 7, line 6, is a technical amendment which conforms the language of section 7326(b) to that in section 7326(a).

The amendments to page 7, lines 13 and 25, are technical amendments which correct typographical errors in the introduced bill.

The amendment to page 11, line 13, and page 17, line 20, are technical amendments which correct the wording of section 7328(c)(2)(C) and the section heading for section 7330.

The amendment to page 17, line 24, adds three new sentences at the end of section 7330(a) to require the Civil Service Commission to annually inform each employee, individually in writing, of each employee's political rights and the restrictions under subchapter III of chapter 73 of title 5, as amended by the bill.

The amendment to page 19, in the item relating to section 7330 in the analysis, is a technical amendment to conform the analysis to the heading of section 7330, as amended.

The amendments to page 20, lines 5 and 6, are technical amendments which add two commas to section 2(c) of the bill.

#### PURPOSE

The primary purposes of H.R. 8617 are:

- (1) to modify the "Hatch Act" by permitting Federal civilian and postal employees to participate voluntarily and as private citizens in the political life of the Nation;
- (2) to prohibit the misuse of authority, coercion and certain activities involving political contributions by Federal civilian and postal employees;
- (3) to establish an independent Board on Political Activities of Federal Employees to adjudicate alleged violations of the law; and
- (4) to establish a strong mechanism through which the law may be administered.

#### COMMITTEE ACTION

H.R. 3000, the Federal Employees' Political Activities Act of 1975, was introduced by Mr. Clay on February 6, 1975. Subsequently, 10 identical bills were introduced with the cosponsorship of 64 Members of the House. The bill was referred to the Subcommittee on Employee Political Rights and Intergovernmental Programs which conducted public hearings in Washington, D.C., on March 25, and April 8, 9, and 10, 1975. In addition, field hearings were conducted in Annandale, Va., on April 14; Riverdale, Md., on April 15; St. Louis, Mo., on April 19; Cleveland, Ohio, on April 21; New York, N.Y., on May 2 and 3; and Los Angeles, Calif., on June 13, 1975 (hearing Nos. 94-17 and 94-18).

Testimony was received from the Civil Service Commission, Members of Congress, public employee organizations, the National Association for the Advancement of Colored People, public interest groups, partisan and nonpartisan civic organizations, and active and former Federal employees.

On July 10, 1975, the Subcommittee on Employee Political Rights and Intergovernmental Programs approved, by unanimous voice vote, a clean bill in lieu of H.R. 3000, which was subsequently introduced as H.R. 8617. On July 24, 1975, the Committee on Post Office and Civil Service, by unanimous voice vote, ordered H.R. 8617, with amendments, reported to the House.

#### SUMMARY OF PROVISIONS

H.R. 8617, as reported by the full committee, includes the following provisions:

States that Federal employees are encouraged to exercise their right of voluntary political participation.

Prohibits the use of official authority, influence, or coercion with respect to the right to vote, not to vote, or to otherwise engage in political activity.

Prohibits use of funds to influence votes; solicitation of political contributions by superior officials; and making political contributions in Government rooms or buildings.

Prohibits political activity while on duty, in Federal buildings, or in uniform.

Authorizes leave for candidates for elective office.

Establishes an independent Board on Political Activities of Government Personnel whose function is to hear and adjudicate alleged violations of law.

Authorizes the Civil Service Commission to investigate alleged violations of law and provides for subpoena authority, due process, and judicial review of adverse decisions.

Subjects violators of law to removal, suspension or lesser penalties at the discretion of the Board.

Requires that the Civil Service Commission conduct a program for informing Federal employees of their rights of political participation and report annually to the Congress on its implementation.

#### STATEMENT

The Hatch Act was enacted in an effort to protect Federal employees from improper involvement in partisan political activities. Previous studies, public hearings, and staff surveys reveal no evidence that voluntary political activity in any way erodes the integrity of the merit system nor operates against the public interest.

Existing law which actually incorporates over 3,000 administrative determinations, is vague, overly broad, and infringes upon the right of every American to participate fully and completely in the political life of this Nation. Some quarters suggest that since Federal employees retain the right to vote, they enjoy adequate participation in the political process. This conclusion could not be endorsed by the committee.

H.R. 8617 takes these facts into consideration. It prohibits those involuntary political activities which tend to erode public confidence in the integrity of the merit system. It establishes an independent Board to adjudicate alleged violations, freeing the Commission to focus its efforts upon its investigatory and educational responsibilities. It provides due process and judicial review for Federal employees.

The bill does not effect existing law relating to the political activities of State and local government employees. Section 401 of the Campaign Reform Act of 1974 addressed that issue. (See 5 U.S.C. Ch. 15).

#### *Excepted employees*

Presently, the disciplining of employees in the excepted service, other than Presidential appointees, is the responsibility of the agency head; not the Commission. The legislation corrects this inconsistency by making the Commission responsible for the investigation of all alleged violations of the law by employees as defined in the bill. The Board is responsible for the adjudication of alleged violations and the imposition of penalties upon employees.

#### *District of Columbia*

The committee recognizes the imperative of self-government for the District of Columbia. It considered excluding employees of the District of Columbia from this legislation at such time as that Government enacts legislation governing the political activity of its employees. This possibility was rejected by the committee because of legal impedi-

ments. If and when the District of Columbia enacts such legislation, the committee will consider excluding District of Columbia employees from this legislation.

*Indirect coercion*

The Civil Service Commission is concerned that it will encounter difficulty in enforcing the bill's prohibition against indirect coercion and misuse of authority. Notwithstanding this reservation, the committee is confident that the Commission will successfully implement this provision with the same vigor with which it has reportedly dealt with the equally subtle acts of racial, religious, and sexual discrimination in the Federal merit system.

*Political activity on duty*

The committee is sensitive to the abuses of the merit system which occurred during recent administrations. It adopted an amendment excluding the President, the Vice President and noncompetitive employees in the White House from the prohibition against political activity while on duty or in Government rooms or buildings. The committee is mindful that this prohibition might be impractical and difficult to enforce. The committee does, however, believe that the partisan political activities of the President and Vice President should be the responsibility of the appropriate political organizations. It is imperative that such activities be kept as far removed from the official duties of the President and the Vice President as the public interest will permit.

*Leave of absence to seek elective office*

The bill requires that Federal employees, upon request, must be granted accrued annual leave and leave without pay in order to seek party or public elective office. Such leave, if requested, must be granted, thereby precluding the hindering of such candidacy by superior officials. To require that Federal employees seeking elective office must take leave without pay would give an advantage to those individuals who are fortunate enough to have adequate resources to meet their personal and familial responsibilities during a campaign.

The committee considered and rejected an amendment to require that employees who seek Federal or Statewide elective public office take leave without pay. Such a requirement is inconsistent with the purpose of this legislation—to stimulate broad participation in the Nation's political process by Federal civilian and postal employees. Further, candidacy for such offices would necessarily require a full-time effort. Under these circumstances any Federal employee would most likely elect to take leave.

*Board on political activities*

The bill establishes a Board on Political Activities of Federal Employees whose function is to hear and to adjudicate alleged violations of the law. In creating this independent three member Board, composed of Government employees the committee has attempted to delineate a clearer line of responsibility between the educational and investigatory functions of the Commission, on the one hand, and the adjudicative functions of the Board on the other hand.

*Investigatory procedures*

The 1967 Commission on Political Activity of Government Personnel found a significant time lapse between the filing of complaints and their disposition. Administrative delays in the processing of complaints are intolerable.

This legislation ensures employees the right to timely adjudication of complaints while adequately protecting and safeguarding the interests of the employees, agencies, and the public.

It establishes specific time frames within which complaints must be processed. Simple equity and justice dictate these improvements in the administration of the law.

It is expected that any employee who is the subject of Commission or Board action in the investigation or adjudication of a complaint will be permitted representation by an individual or organization of his own choosing, if he so desires.

*Penalties*

Under existing law, penalties for violations of the law are overly severe. Removal from office is required for any violation, unless the Commission unanimously votes against removal. In such an event, a minimum penalty of 30 days' suspension without pay must be imposed. There is no opportunity for the Commission to temper the penalty in accordance with any unique conditions concerning violation.

To maintain a deterrent effect, while providing discretion to the Board in imposing penalties, the bill permits the Board by a simple majority vote, to impose any penalty ranging from a warning to removal from office.

The bill further removes the present permanent bar upon reemployment in the same agency for violators of the act. In many cases this is a harsh penalty for the agency as well as the individual and is counterproductive to the public interest.

*Subpena authority*

Under existing law, the Commission has no authority to require, by subpoena, testimony from potential witnesses. Without this authority, it is sometimes difficult for the Commission to secure the necessary evidence in proceedings where employees are reluctant to testify against a superior, coworker, friend, or neighbor.

Subpenas and orders for taking depositions can only be issued by a member of the Board. The committee intends, however, that to assist the Commission in its investigatory activities and to assist employees in their defense to charges, the Commission and employees will seek such subpenas and orders from the Board when circumstances dictate.

The bill further provides for the granting of immunity from prosecution to employees whose testimony is compelled under subpoena.

The Commission or the Board may, in its discretion, proceed with any investigation or adjudication, notwithstanding the fact that criminal prosecution may be pending or contemplated.

*Judicial review*

Existing law makes no provision for judicial review of the Commission's decisions regarding Federal employees. That right is expressly

available to State and local employees under section 1508 of title 5, United States Code. The bill corrects this inequity and affords this right to Federal employees. In addition, a stay of the application of a penalty, preserving the status quo, is available. Thus, the bill guards against irreparable injury to the employee pending review. The bill further permits the award of attorney fees, should the court find that an employee has been wrongfully penalized.

*Educational programs*

As matters now stand, employees are generally confused as to where and how to report alleged violations of the law regulating the political activity. The committee believes that the Commission can and should be more aggressive in conducting an educational program for educating Federal employees about their political rights. The Commission on Political Activity of Government Personnel recommended that such a role could be fulfilled by an Office of Employees' Counsel and recommended that the Commission undertake a feasibility study on the establishment of such an office. No action was taken on this recommendation by the Commission.

The committee wishes to note its concern that the Commission has been of limited effectiveness in conducting a program for educating each Federal employee as to what does and does not constitute permissible political activity.

The committee expects that the Commission will undertake its educational program and evaluation in active and meaningful consultation with appropriate employee organizations. Such consultations can and should be initiated immediately upon enactment of this legislation.

The committee further believes that it is imperative that the Commission, in investigating complaints of alleged violations of law, not simply react to such allegations but aggressively seek and initiate appropriate investigations. For any number of reasons, employees may not file formal complaints.

The bill requires that the Commission notify each employee of permissible and prohibited political activities. It is the intent of the committee that this information be provided in as economic a manner as circumstances permit. If, for example, the Commission should deem it appropriate to distribute this information via employees' pay checks, the committee is hopeful that it would secure the active cooperation and support of appropriate Federal agencies.

*Administrative support for the Board*

The bill requires that support for the Board be provided by the Commission and the General Services Administration. Two factors influenced the committee's decision in this area. Indications are that, in all likelihood, there will be few cases requiring Board action. This judgment is based upon an analysis of the nature and number of previous complaints of alleged violations of the Hatch Act. The committee will observe developments in this area, and, should circumstances dictate, will consider appropriate legislation to deal with this issue.

#### BACKGROUND

##### *Historical background of the regulation of political activity of Government employees*

A review of congressional and executive proposals for the regulation of political activity by Federal civilian employees reveals that until 1939, the legislative branch never determined that a blanket prohibition on voluntary political activity by Federal employees was necessary to protect either the integrity of the Federal merit system or the political process. From the first Congress in 1791 through 1939, the Congress refused to impose such restraints on the grounds that they were unconstitutional.

Prior to 1939, all regulation of the political activity of Federal civil service employees was imposed by the executive branch. With the enactment of the Hatch Act in 1939, over 3,000 prior administrative determinations of the Civil Service Commission were incorporated into law.

Earlier, legislative attempts to limit the extent to which Federal employees could participate in voluntary political activities were successfully opposed in the Congress on the grounds that such restrictions unduly infringed upon the constitutional rights of free speech and free association. Employees were forbidden to use their authority or influence for the purpose of interfering with or coercing other employees or program beneficiaries.

In 1791, a proposed amendment to limit the political activities of inspectors of distilled spirits was defeated in the House by vote of 37 to 21 on the grounds that, "this clause will muzzle the mouths of freemen, and take away their use of their reason." (*Annals of Cong.* 1877 (1791).) In 1801, during Jefferson's administration, restrictions were proposed by the administration but were not implemented. Later, in 1838, a bill to prevent interference by Government officers with elections was introduced in the Senate by Senator Crittendon of Kentucky. The Senate Committee on the Judiciary made an unfavorable report on the Crittendon bill, calling it, "unjust, unequal, impractical, impolitic, tyrannical and unconstitutional." (*Cong. Globe, 25th Cong., 2d Sess. Appendix*, at 160 (1839).) The bill was defeated by vote of 28 to 5.

Action to limit the political activities of Government employees was taken by Secretary of State Daniel Webster in 1841. He proscribed, under penalty of removal, "partisan interference in popular elections" in order that elections "shall be free from undue influence of official station and authority," and "opinion shall also be free among the officers and agents of the Government." (Fowler, "Precursors of the Hatch Act," 47 *Miss. Valley Hist. Review* 253 (1960).) Webster's action did not proscribe voluntary partisan political activity. There were few other attempts to control the political activities of Federal employees during this period.

President Rutherford B. Hayes, in 1877, issued an Executive order providing that "no officer should be required or permitted to take part in the management of political organizations, caucuses, conventions, or election campaigns. (7 Richardson, *Messages and Papers of the Presidents*, 450-451, (1898).) The order was aimed at preventing



the coercion of public employees to engage in political activity. President Hayes was subsequently severely criticized by President James A. Garfield for "trying to effect a reform without legislative aid." (*Letter of James A. Garfield to Burke A. Hinsdale, July 25, 1880, Garfield Letter Book, James A. Garfield Papers (Manuscript Division, Library of Congress).*)

Protection for Federal officers from removal from office for political reasons was accomplished under President Garfield's successor, President Chester Arthur, with the passage of the Pendleton Civil Service Act of 1883. That Act established the Civil Service Commission and protected Federal employees from politically motivated removal from office. It did not prohibit voluntary political activity. The classified service, over which the Civil Service Commission had authority, constituted only about 10.5 percent of the total executive civil service work force of 131,208 positions. (Civil Service Commission, *the Classified Executive Service of the United States Government* 4 (1932).)

President Grover Cleveland refined the force of the Commission's rules governing the political activities of Federal employees in 1886, when he issued a circular permitting Federal employees substantially greater political participation. He made it clear that he was not condemning political activity in a blanket fashion. He expressed his concern about the use of official positions in attempts to control political movements in the following paragraph:

Individual interest and *activity* in political affairs are by no means condemned. Officeholders are neither disfranchised nor forbidden the exercise of political privileges, *but their privileges are not enlarged nor is their duty to party increased* to pernicious activity by officeholding. [Emphasis added.] (8 *Richardson, Messages and Papers of the Presidents* 494-95 (1898).)

This circular governed the political activities of Government employees until President Theodore Roosevelt issued Civil Service Rule I in 1907.

Civil Service Rule I, drawn from President Roosevelt's Executive Order No. 642, prohibited all persons in the classified service from taking an "active part in political management or political campaigns." (*Twenty-fourth Ann. Rep. of the United States Civil Service Commission* 104 (1907).)

Theodore Roosevelt had served as a Civil Service Commissioner from 1889 to 1895. He was frustrated by the Commission's lack of enforcement authority over a system in which only 25 percent of the employees were classified. The "spoils" system controlled appointments to 75 percent of all Federal offices. In 1894, while admitting that no rule governing partisanship in the classified service had been authoritatively construed and that the Commission did not have proper authority to issue such a rule, Roosevelt stated his idea of what such a rule should be.

A man in the classified service has an entire right to vote as he pleases, and to express privately his opinions on all political subjects; but he should not take any active part in political management or political campaigns. (*Eleventh Ann. Rep. of the Civil Service Commission* 20-21 (1894).)

This language is, of course, almost identical to that of the 1907 Rule and the 1939 statute.

On May 27, 1938, a special Senate committee was appointed to investigate charges that Federal public assistance monies were being utilized to influence Federal and local elections. Chaired by Senator Morris Sheppard of Texas, the committee found that the common feature of abuses was coercion or intimidation of Government employees or relief recipients to change party affiliation or to support party interests. The committee found that Federal public assistance funds were often diverted for political purposes. It recommended that such practices be made subject to criminal penalties.

The Sheppard committee considered instances of voluntary political activity by Federal employees. In each case it found that such activity did not constitute grounds for criticism. Its report contained no finding that the effectiveness of the Federal work force was compromised by voluntary political activity.

At the time, "New Deal" relief programs had expanded the Federal work force considerably. Many needy persons placed on the Federal payrolls were not in classified positions and therefore were not subject to the regulations governing partisan political activities administered by the Civil Service Commission. It has been estimated that of the total Federal work force of 953,891, only about 305,245, or about 32 percent, were in the competitive civil service.

A directive from the WPA program director that candidates or holders of elective office were prohibited from holding administrative capacities in WPA was eventually incorporated in WPA appropriation bills, beginning in 1936. Shortly thereafter, Senator Carl Hatch of New Mexico failed in his effort to add an amendment to the WPA 1938 appropriation bill making administrative employees of the WPA subject to the same restrictions imposed upon civil service workers by Rule I of the Civil Service Commission. The amendment was defeated in the Senate.

The Sheppard Committee reported to the Congress on January 3, 1939. Two months later, during the first session of the 76th Congress, Senator Hatch introduced legislation incorporating the Committee's recommendations into a single measure (S. 1871) forbidding any involvement in the affairs of a political organization by Federal employees working in nonpolicy making positions.

*Summary of the legislative history of the Hatch Act*

As introduced by Senator Hatch on March 20, 1939, S. 1871 contained various criminal provisions which were finally enacted and codified in title 18, United States Code. In addition, S. 1871 prohibited Federal administrative or supervisory employees from using their official authority to influence an election or from taking an active part in political campaigns. The penalty for violation of the law would be removal from Government service. The bill also provided that an employee retained the right to vote as he chose and to privately express his opinion on political subjects. This language was the forerunner of the Hatch Act prohibition which is now codified as section 7324 of title 5, United States Code.

On March 30, 1939, the Senate Committee on the Judiciary reported S. 1871. No public hearings were conducted on the bill nor was there much comment on the bill when it reached the Senate floor.

A motion by Senator Guffey to reconsider was withdrawn when Senator Hatch explained that section 9 of the bill did not apply to policymaking officials in the executive branch. Actually, there was no such express exemption in the bill. Express exempting language was, however, subsequently added by the House. The bill passed the Senate by unanimous consent.

In the House, S. 1871 was referred to the Committee on the Judiciary. The measure was reported, without public hearings, on July 5, 1939, with an amendment deleting the prohibition against taking an active part in political campaigns and the language dealing with the right of employees to vote and express political opinions.

On the House floor, S. 1871 was the subject of lengthy debate. Much of the discussion centered around section 9, which prohibited the misuse of official authority or active political management. Representatives Celler and Hobbs objected to the bill because it was overly broad. Mr. Celler contended that the measure should concern itself solely with the political activities of those in relief agencies, while Mr. Hobbs cautioned against prohibiting all political activities by Government employees, rather than just prohibiting pernicious political activities.

On the other hand, Representative Dirksen warned that, without the prohibitions of section 9, the Federal service might become a political machine. Several House Members voiced fears that the measure might place overly stringent controls on the political activities of Cabinet officers and other policymaking employees.

When a vote was finally taken on the committee amendment, the prohibition against taking an active part in political management was defeated. Mr. Hobbs then proposed to amend section 9 to provide that all persons shall retain the right to vote as they please and to express their opinions on all political subjects. This amendment, which was adopted by the House, still omitted the language prohibiting Federal employees from taking an active part in political campaigns.

Following adoption of the Hobbs amendment, the House considered an amendment to section 9, offered by Representative Dempsey, which:

- (1) Specified that only executive branch employees would be covered by section 9, whereas, under the original language, the section would have applied to all Federal agency employees;
- (2) Added to the prohibition against taking an active part in political management by barring nonexempt executive branch employees from taking an active part in political campaigns; and
- (3) Specified that senior policymaking officials in the executive branch would be exempt from the prohibition against political campaigning.

The Dempsey amendment was approved and became part of the final measure adopted by Congress and signed into law by the President on August 2, 1939 (53 Stat. 1147). The language of section 9 has remained basically unchanged.

The enactment of the Hatch Act thus extended the proscriptions of Civil Service Rule I from 68 percent to almost all of the 953,891 Federal employees.

Since its adoption in 1939, the most significant amendment to the Hatch Act occurred in 1940, with the enactment of Public Law 76-753. In summary that law provided the following: (1) extended the political activity prohibitions to District of Columbia employees and to State and local government employees whose principle employment is in connection with a federally funded activity; (2) permitted Federal employees, residing in certain areas where a majority of the voters are Federal employees, to take part in local political matters; (3) amended Federal campaign laws by placing a limitation on certain contributions and expenditures; and (4) redefined the prohibitions against taking an active part in political campaigns by incorporating in the statute over 3,000 prior administrative determinations of the Civil Service Commission.

*Regulation of political activities of Government employees in other nations*

The subcommittee conducted a study of the prevailing practices in several other democratic nations with respect to the regulation of voluntary political activities by public employees. The countries surveyed were Sweden, France, Australia, Great Britain, West Germany, Canada, and Japan.

In Sweden, civil servants enjoy the same political rights as other citizens. They may join a political party, work actively in its behalf and become a candidate for Parliament. The Swedish Parliament contains a number of public employees who continue to receive a part of their pay as public workers as well as the normal compensation attached to the legislative office they hold. The only restrictions placed on public employees are that they must be objective in fulfilling their official duties; they are not permitted to participate in activities of political parties in their official capacity; and they must carry out the orders of their superiors even though complying with such orders is contrary to their own political views.

In France, civil servants are divided into two groups. The great majority of them have complete freedom to become members of political parties and to participate in their activities. Those who hold positions of responsibility (prefects-direct agents of the government) must show greater reserve—that is, they must not disclose the fact that they are civil servants when engaged in political activities, nor use information which they have acquired by virtue of their office, nor stand for election within the area of their prefecture (nor may they stand there until after they have left the area for 6 months). All other civil servants can run for election to Parliament (leave with pay status) while in active service. If elected they are placed in detached service but are taken back in, if they desire, when they relinquish their seat in Parliament. While serving in Parliament, they retain all pension and promotion rights as if they had never left active service.

In Australia, public servants may express opinions freely at all levels. The only prohibition on political expression is that they may not divulge departmental information. They can run for Parliament but must resign from the civil service before or upon nomination for election. (Public servants may contest state elections without resigning if the applicable laws of an individual state permits). They have full reappointment rights if they fail to be elected or desire to return after completing their term in office.

In Great Britain, employees are divided into three categories—industrial and nonindustrial workers (composed of service, maintenance and manipulative employees); an intermediate group (technical and clerical services and lower professional and administrative categories); and, senior civil servants (executive classes; those in executive, professional, scientific, technical, and administrative classifications).

Industrial and nonindustrial workers are free to engage in political activity, they can run for elective office but must resign if they run for Parliament, although they retain full reinstatement rights to return to active service. The intermediate group is free to take part in all political activities, with the permission of their department head, except Parliamentary candidature (they may run for local office without departmental permission). Senior civil servants are barred from taking part in national political activities. With permission, they may participate in political activities on the local level.

In West Germany, civil servants have the right of expression—with moderation and restraint. They must not divulge information obtained through government employment. Public officers have, through professional associations acting as pressure groups, become party activists and legislators. Government employees, on duty or acting in any official capacity, must refrain from any political activity. Anyone who wishes to run for Parliament must be given a leave of absence. If successful, the employee must resign from the civil service. After completing a term of office a civil servant may be reinstated provided that the general civil service requirements are met.

In Canada, deputy heads and employees are not permitted to participate actively in any election for membership in the House of Commons, the provincial legislatures and the Councils for the territories. They may not work for, on behalf of, or against any political party. They may attend, however, political meetings and make contributions to political funds. Employees may request a leave of absence without pay in order to become a candidate for national or local office. They must resign if successful. They may return to their former positions if unsuccessful.

In Japan, prior to 1947, classified government employees were permitted unlimited voluntary political participation. As a result, one political party was established within the government which frequently obstructed national policy. At the conclusion of World War II hostilities, the Commander of the Army of Occupation decreed that adequate safeguards should be established to protect the public against interruption of services by public employees. Shortly thereafter, the Japanese government outlawed all political activities by its employees.

#### *Hearings*

The public hearings conducted by the Subcommittee on Employee Political Rights and Intergovernmental Programs on H.R. 3000 constituted the first extensive congressional hearings held on the regulation of political activity of Government employees. There was widespread agreement among nonadministration witnesses that the Hatch Act was antiquated, repressive, overly broad and vague, and in need of revision. The subcommittee held 11 days of public hearings—4 in Washington and 7 in various cities around the country.

Two evening sessions were conducted in Annandale, Va., and Riverdale, Md., in order to receive testimony from active and retired Federal employees and others who were deeply interested in the bill. The public participation in these hearings was impressive.

In all, the subcommittee received testimony from 107 witnesses—individuals, employee organizations, civil rights groups, and local and national elected officials. Of the 107, 86 expressed support for amending the Hatch Act while only 21 wanted to retain the present Act.

The overwhelming sentiment which surfaced during these hearings was that the Hatch Act was overly broad, vague, and repressive in nature, and that it infringed upon the constitutionally guaranteed rights of free speech and free association.

Thomas Matthews, an attorney and consultant to the bipartisan independent Commission on Political Activities of Government Personnel stated:

The vagueness and confusion of the present statute makes it a sword of Damocles constantly hanging, uncertainly, over the heads of millions of federal employees. That uncertainty inhibits them in the exercise of rights protected by the First Amendment and encourages them to exercise self-censorship beyond the actual prohibitions of the statute because it is difficult, if not impossible, to determine the reach of the law with confidence.

Numerous active and retired Federal civilian employees who came before the subcommittee attested to the fact that they were hesitant to participate voluntarily in the political life of this Nation because they were uncertain as to exactly what they could or could not do.

Many witnesses were unfamiliar with existing regulations governing political activities of Federal employees. This comes as no surprise when one reviews the regulations issued by the Civil Service Commission—they are contradictory, ambiguous and confusing. These regulations, along with the over 3,000 administrative determinations made by the Commission which constitute the Hatch Act, would make any Federal employee fearful of becoming politically involved. Instead, employees tend to sit back and "play it safe." Incongruously, at a time when this country should be encouraging active participation by its citizens, almost 3 million Federal employees have been politically sterilized.

Case after case presented before the subcommittee conclusively demonstrated the undue hardship imposed by the Hatch Act upon Federal employees. Several reported incidents involved Federal employees who could not take an active role in the campaign of their spouse for elective office. According to a witness from New York:

I must be left so to speak in the "dog house" stuck with babysitting at home while my wife as a county committee-woman is allowed full freedom. It is indeed very frustrating for me not to enjoy this political freedom especially since it would take place when I'm off duty from my job and therefore would not present a conflict of interest in performing my duties on the job.

Another employee ran for public office to seek improvement of the conditions in state mental hospitals—he was found in violation of the Hatch Act and removed from his position.

Still another employee who attempted to become involved in community service came up against big business interests which aimed to destroy a local park in favor of an industrial site. Local citizens asked him to take up the banner of saving the environment. The employee discontinued his activities when he was told by his employing agency that if he continued he would be found in violation of the Hatch Act. As he stated to the subcommittee:

Because I was a federal employee . . . my effectiveness as a spokesman for the citizens in the [Park] matter were curtailed, the city administration used it as a club, and the corporation had its way. We lost the part, and just as I had predicted, my neighborhood is deteriorating, blight has set in, and many of our influential neighbors have moved. Our home values have gone down and pollution is destroying us.

No conclusive evidence was presented during the hearings that voluntary political activity by Federal employees endangered the integrity of the merit system. All witnesses agreed that coercive or involuntary political activity was an area which must be controlled in order to safeguard Federal employees against possible abuses of official authority.

The committee differentiates between voluntary and involuntary political activity and aims to prevent the latter which does erode the integrity of the merit system. Witnesses suggested the best way to accomplish this was through a listing of those activities which clearly operated against the public interest and which should therefore be prohibited.

Criticism was also leveled against the Commission's lack of active enforcement of the Hatch Act. Witnesses suggested that adjudications of alleged violations of law should rest with an independent tribunal leaving the Commission to conduct investigations of complaints and to undertake a educational program to inform Federal employees as to their political rights.

Witnesses also complained that the current penalties under the Hatch Act were too severe. Existing law requires that any infraction be punished by removal from office, unless, by unanimous vote, the Commission decides otherwise.

The consensus was that penalties should be of a civil nature and should be applied according to the circumstances involved. Clarence Mitchell of the NAACP addressed himself to this issue:

It must be remembered that the Hatch Act was passed at a time when fines and jail sentences were almost routinely added to new laws. There is little to show that such penalties have improved the quality of society nor have they kept wrongdoers from carrying out schemes against the public interest.

#### SECTION ANALYSIS

The first section provides that this Act may be cited as the "Federal Employees' Political Activities Act of 1975".

Subsection (a) of section 2 of the bill amends subchapter III of chapter 73 of title 5, United States Code, by rewriting seven existing sections (5 U.S.C. 7321-7327) and adding four new sections (5 U.S.C. 7328-7331). The revised and expanded provisions of subchapter III are explained below by code section references.

*Political participation*

Section 7321 sets forth the policy of the Congress that employees should be encouraged to fully exercise, to the extent not expressly prohibited by law, their rights of voluntary political participation in the political processes of the Nation. The phrase "should be encouraged to fully exercise, to the extent not expressly prohibited by law", reflects the committee's belief that any legislation restricting political activities by employees should do so expressly, and that in the absence of an express prohibition, an employee may, of his own volition, engage in any political activity.

In this regard, the bill includes, in most instances in revised language, those prohibitions in the Criminal Code which pertain to political activities of Federal employees (see, 18 U.S.C. 594, 597, 599, 600, 601, 602, 603, 606, 607). In other instances the bill includes, with minor revisions, definitions in the Criminal Code (see, 18 U.S.C. 591 (b) and (e)).

With the inclusion of these provisions the committee intends this bill to serve as a codification of the restrictions on political activities of employees. With the exception of sections 602 and 607 of title 18, which the bill amends to permit certain previously prohibited activities by employees, the criminal provisions remain unchanged. Accordingly, any activity by an employee which violates one or more of the criminal provisions cited above (including sections 602 and 607, as amended by the bill), would also constitute a violation of section 7323, 7324, or 7325 of title 5, as amended by the bill.

*Definitions*

Section 7322, consisting of 6 numbered paragraphs, defines various terms for purposes of subchapter III.

Paragraph (1) defines "employee" to mean any individual, including the President and the Vice President, employed or holding office in: (A) an Executive agency; (B) the government of the District of Columbia; (C) the competitive service; or (D) the United States Postal Service or the Postal Rate Commission. Thus, all officers and employees of Executive agencies and the District of Columbia, whether they are in the competitive service (see, 5 U.S.C. 2102) or the excepted service (see, 5 U.S.C. 2103) are included in the definition. Also included are those employees in the legislative and judicial branches who hold positions in the competitive service. Members of the uniformed services are specifically excluded from the definition.

Paragraph (2) defines "candidate." The definition is similar to that presently found in the Criminal Code (see, 18 U.S.C. 591(b), as amended) and provides that the term "candidate" means any individual who seeks nomination for election, or election, to an elective office, whether or not the individual is elected. Thus an individual who is seeking to win a party's nomination in a primary election or in a convention as well as an individual who has already been nominated and is seeking election to a particular office is included within the definition. Subparagraphs (A) and (B) of paragraph (2) establish the point in time at which an individual is deemed to seek nomination for election, or election, as that time when an individual has: (A) taken the action required to qualify for nomination for election, or election; or (B) received political contributions or made expenditures, or has



given consent for any other person to receive political contributions or make expenditures, with a view to bringing about that individual's nomination for election, or election.

Paragraph (3) defines "political contribution." The committee intends that this definition be given a broad interpretation.

Subparagraph (A) of paragraph (3) provides that "political contribution" means a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any individual to elective office or for the purpose of otherwise influencing the results of any election. The phrase "anything of value" is intended to include the use of real or personal property and the rendering of any personal service. The phrase "for the purpose of otherwise influencing the results of any election" reflects the committee's intent that contributions made to influence the results of elections relating to matters other than political office, for example, bond issues or local referenda, are included within the term "political contribution".

Subparagraph (B) provides that the term "political contribution" includes a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a political contribution.

Subparagraph (C) provides that the term "political contribution" also includes the payment by any person, other than a candidate or a political organization, of compensation for the personal services of another person which are rendered to a candidate or political organization without charge.

Paragraph (4) defines "superior" to mean an employee, other than the President or the Vice President, who exercises supervision of, or control or administrative direction over, another employee. The definition is intended to include those employees who, through the exercise of the authority of their position, may influence or affect the career advancement or working conditions of other employees. Thus an employee who has the authority to promote (or recommend or approve the promotion of) another employee, or to assign work to, or to evaluate the performance of, another employee would be deemed a "superior".

Paragraph (5) defines "elective office" to mean any elective public office and any elective office of any political party or affiliated organization. The phrase "elective public office" is intended to include any Federal, State, or local office which is filled by the election of an individual. The phrase "elective office of any political party or affiliated organization" is intended to include offices of a political party or organization such as committee person, convention delegate, president, or chairperson which are filled by the election of an individual.

Paragraph (6) defines "Board" to mean the Board on Political Activities established under section 7327 of title 5, as amended by the bill.

*Use of official authority or influence; prohibition*

Section 7323 sets forth prohibitions on the use of official authority or influence for political purposes and defines "use of official authority or influence".

Subsection (b) of section 7323 defines "use of official authority or influence for purposes of subsection (a)" as including, but not limited to, promising to confer or conferring any benefit (such as appointment,

promotion, compensation, grant, contract, license, or ruling), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, compensation, grant, contract, license, or ruling). The parenthetical matters are examples only, and the committee intends, for purposes of subsection (a) of section 7323, "use of official authority or influence" to include the conferring, denying or affecting of any benefit emolument, or other thing which may be within the authority of an individual as a government employee to confer, deny, or affect.

Subsection (a) of section 7323 prohibits an employee from using or attempting to use that employee's official authority or influence, either directly or indirectly, for political purposes. The phrase "directly or indirectly" recognizes that the use of official authority or influence may often not be manifested in an overt act but instead may be exercised in a subtle fashion. The committee intends that such subtle use or attempted use of official authority or influence for political purposes be included in the prohibition of subsection (a).

Paragraphs (1) and (2) of subsection (a) set forth the political purposes for which it is improper for an employee to use or attempt to use official authority or influence.

Paragraph (1) prohibits the use or attempted use of official authority or influence for the purpose of interfering with or affecting the result of any election. This provision is identical to one of the primary prohibitions of the present Hatch Act (5 U.S.C. 7324(a)(1)).

Paragraph (2) of subsection (a) prohibits the use or attempted use of official authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing, or attempting to intimidate, threaten, coerce, command, or influence: (A) any individual with regard to the right of that individual to vote, or not to vote, as that individual may choose, or to cause an individual to vote for or against any candidate or measure; (B) any person to give or withhold any political contribution; or (C) any person to engage, or not to engage, in any form of political activity whether or not the activity is prohibited by law. It should be noted that although the committee intends that it be the policy of the Congress, as set forth in section 7321 discussed above, to encourage employees to fully exercise their rights of political participation, the committee also intends that the prohibitions in subsection (a) of section 7323 provide protection against the use of official authority or influence for those employees who choose not to engage in political activity.

*Solicitation; prohibition*

Section 7324 sets forth prohibitions applicable to employees with regard to soliciting, accepting, receiving, or giving political contributions.

Paragraph (1) of section 7324 prohibits an employee from giving or offering to give a political contribution in return for any individual's vote, or abstention from voting, in any election.

Paragraph (2) of section 7324 prohibits an employee from soliciting, accepting, or receiving a political contribution in return for his vote or abstention from voting.

Paragraphs (1) and (2) parallel, with minor rewording, existing prohibitions in the Criminal Code pertaining to the buying or selling

of votes (see, 18 U.S.C. 597), and it is the intention of the committee that any act prohibited by the criminal provision also be prohibited by these paragraphs.

Paragraph (3) of section 7324 prohibits an employee from knowingly giving or handing over a political contribution to a superior of that employee. The phrase "superior of that employee" is intended to limit the prohibition to instances where an employee makes a political contribution to a superior who has the authority to affect that particular employee's employment. Thus, while an employee may not give a political contribution to another employee who is his superior, an employee is not prohibited from giving a political contribution to another employee solely because the other employee is a superior as defined in paragraph (4) of section 7322. For example, an employee of one agency is not prohibited from giving a political contribution to a supervisory employee of another agency.

Paragraph (4) of section 7324 sets forth two prohibitions against the solicitation or receipt of political contributions by employees.

Subparagraph (A) of paragraph (4) prohibits an employee from knowingly soliciting, accepting, or receiving, or being in any manner concerned with soliciting, accepting, or receiving, a political contribution from another employee (or a member of another employee's immediate family) with respect to whom the employee is a superior. As with the prohibitions in paragraph (3) discussed above, the phrase "with respect to whom such employee is a superior" is intended to limit the prohibition to instances where a superior has the authority to affect an employee's employment. In most instances where an employee is a superior with respect to another employee, both employees would be in the same agency. The inclusion of the phrase "member of an employee's immediate family" is intended to prohibit possible circumvention of the literal prohibition against a superior soliciting political contributions from an employee such as where a superior solicits a contribution from the employee's wife. A member of an employee's immediate family would generally include those blood relations who reside in the employee's household, although in certain instances it could include other relations such as parents, children, brothers, or sisters, who reside in the nearby vicinity, and whose decision to give or not to give a political contribution to a superior of an employee could be affected by the superior-employee relationship.

Subparagraph (B) of paragraph (4) prohibits an employee from knowingly soliciting, accepting, or receiving, or being in any manner concerned with soliciting, accepting, or receiving, a political contribution in any room or building occupied in the discharge of official duties by: (i) an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or (ii) an individual receiving any salary or compensation for services from money derived from the Treasury of the United States. Thus, an employee is prohibited from soliciting political contributions in any room or building where Federal Government business is being conducted. In addition, an employee is prohibited from soliciting political contributions in any room or building where an individual being paid from money derived from the Federal Treasury is working, for example, where an individual whose salary is paid through a Federal grant

or where an employee of a Federal contractor whose salary derives from Federal funds is working.

Subparagraph (B) parallels, with minor rewording, existing provisions in the Criminal Code (see, 18 U.S.C. 603), and it is the intention of the committee that any act prohibited by the criminal provision also be prohibited by subparagraph (B).

*Political activities on duty, et cetera; prohibition*

Subsection (a) of section 7325 prohibits an employee from engaging in political activity: (1) while on duty; (2) in any room or building in which an individual employed by the Government of the United States, or the government of the District of Columbia is engaged in official duties; or (3) while wearing a uniform or official insignia identifying the office or position of the employee. Subsection (a) reflects the belief of the committee that political activity of employees should not be allowed to interfere with the effective conduct of the Government's business.

Subsection (b) of section 7325, with the committee amendment, excludes from the prohibitions of subsection (a), the President, the Vice President, and an individual: (A) paid from the appropriation for the White House Office; (B) paid from funds to enable the Vice President to provide assistance to the President; or (C) on special assignment to the White House Office, unless such individual, described under (A), (B), or (C), holds a career or career-conditional appointment in the competitive service.

*Leave for candidates for elective office*

Section 7326 authorizes leave without pay and accrued annual leave to be granted to employees who are candidates for elective office.

Subsection (a) of section 7326 provides that an employee who is a candidate shall, upon that employee's request, be granted leave without pay for the purpose of engaging in activities relating to that employee's candidacy. It should be noted that there is no requirement that an employee who is a candidate take leave without pay, but if the employee requests such leave without pay, the employing agency must grant the request.

Subsection (b) of section 7326 provides that an employee who is a candidate shall, upon that employee's request, be granted accrued annual leave for the purpose of engaging in activities relating to that employee's candidacy. As is the case with leave without pay, an employee is not required to take accrued annual leave, but if the employee requests such leave, the employing agency must grant the request, notwithstanding the provision in section 6032(d) of title 5 which provides that the granting of annual leave is within agency discretion. The term "accrued annual leave" means that an employee is entitled only to that amount of annual leave which he has actually earned. An agency is not required to advance annual leave.

Under section 7326, an agency is only required to grant leave to an employee who is a *candidate*, as defined in section 7322(2), and to prevent possible abuses of leave requests, an agency should verify that an employee is actually a *candidate* before granting a request. An employee's right to be granted leave without pay or accrued annual leave is extinguished immediately following election day whether or not the employee is elected or at such other time when the candidacy termi-

nates such as the date on which or employee withdraws from candidacy. The phrase "to engage in activities related to such candidacy" reflects the committee's intent that leave under this section is to be used primarily for such activities. Thus, an agency may deny a request for leave under this section if it is apparent that the leave is requested for other activities, unrelated to the employee's candidacy.

Subject to the foregoing qualifications, the decision as to whether to take leave without pay, accrued annual leave, or a combination of both, rests with the employee who is a candidate. If an employee who is a candidate does not take leave and engages in activities relating to that candidacy or other political activity while on duty, such activities would violate section 7325 discussed above.

*Board on Political Activities of Federal Employees*

Section 7327 establishes the Board on Political Activities of Federal Employees.

Subsection (a) establishes the Board and provides that its function shall be to hear and decide cases regarding violations of sections 7323, 7324, and 7325 of title 5. Thus, the Board's authority is adjudicatory only, with actual investigatory, prosecutorial, and enforcement authority being given to the Civil Service Commission under section 7328, discussed below.

Under subsection (b), the Board is composed of three members. One member, who shall serve as Chairman, is appointed by the President. One each of the other two members is appointed by the Speaker of the House and the President pro tempore of the Senate, respectively. All three members are subject to confirmation by both Houses of the Congress.

Subsection (c) provides that the members shall be chosen on the basis of their professional qualifications from among individuals who, at the time of their appointment to the Board, are employees as defined under section 7322(1) of title 5, as amended by the bill.

Under paragraph (1) of subsection (d), the members are appointed for a term of three years, and the terms are staggered so that one member's term expires each year. An individual appointed to fill a vacancy may be appointed only for the unexpired term of the member he succeeds. Vacancies shall be filled in the same manner in which the original position was filled.

Paragraph (2) of subsection (d) provides that if a member of the Board ceases to be an employee due to separation from the service, he may not continue as a member of the Board for longer than 60 days after he becomes separated. The committee intends that a member who ceases to be an employee as defined under section 7322(1) but who otherwise remains an employee of the Federal Government, e.g. a non-competitive employee of the Legislative branch, shall be deemed to have separated from service for purposes of this subsection.

Subsection (e) provides that the Board shall meet at the call of the Chairman.

Subsection (f) provides that all decisions of the Board with respect to the exercise of its duties and powers must be made by a majority vote of the Board.

Subsection (g) prohibits a member of the Board from delegating, except as otherwise expressly provided, his vote or any decision making authority vested in the Board.

Subsection (h) requires the Board to prepare and publish in the Federal Register, written rules for the conduct of its activities. Subsection (h) further provides that the Board's official seal shall be judicially recognized and requires the Board to have its office in or near the District of Columbia. The Board, however, may meet and exercise its powers anywhere in the United States, and it is intended that adjudicatory hearings will be held by the Board at locations which take into consideration the convenience of the parties concerned.

Subsection (i) requires the Civil Service Commission to provide clerical and professional personnel and administrative support. It is intended that personnel such as secretaries and attorneys will be furnished to the Board from the Commission and that administrative expenses such as travel expenses for Board members will be the responsibility of the Commission. The Chairman of the Board is required to determine what clerical and professional personnel and administrative support are appropriate and necessary, and personnel furnished to the Board are responsible to the Chairman of the Board.

Past experience indicates that the nature and number of cases involving violations of the restrictions on political activity are such that a full-time adjudicatory body is not necessary. In making determinations with regard to necessary and appropriate personnel, the committee intends that the Chairman of the Board carefully consider the nature and volume of the work to be performed by the personnel.

Subsection (j) requires the Administrator of the General Services Administration to furnish suitable office space, appropriately furnished and equipped. The equipment contemplated by this subsection would include such items as typewriters and stationery supplies necessary for the Board to carry out its functions. The responsibility for determining what may appropriately be provided to the Board under this subsection rests with the Administrator.

Subsection (k) relates to pay and leave for members of the Board. Paragraph (1) of subsection (k) provides that members shall receive no additional pay on account of their service on the Board. Paragraph (2) of subsection (k) provides that members are entitled to leave without loss of or reduction in pay, leave, or performance or efficiency rating during a period of absence while in the actual performance of duties vested in the Board.

#### *Investigations; procedures; hearings*

Section 7328 provides for enforcement of the prohibitions on political activity and establishes procedures for the investigation and adjudication of violations of such prohibitions.

Subsection (a) of section 7328 requires the Civil Service Commission to investigate reports and allegations of any activity prohibited by section 7323, 7324, or 7325 of title 5, as amended by the bill. It is the committee's intent that enforcement efforts by the Commission under this subsection not be limited to responding to formal reports or allegations, but additionally, that such efforts include all steps necessary to insure that the prohibitions are observed by employees.

Subsection (b) of section 7328 requires that the Commission provide an employee who is under investigation with the opportunity to make a statement and submit documentary evidence concerning matters under investigation. This subsection also authorizes Commission

employees lawfully assigned to investigate violations of subchapter III to administer oaths in the course of an investigation.

Paragraph (1) of section 7328(c) requires the Commission, if it appears after investigation that a violation has not occurred, to so notify the employee and the employing agency.

If it appears to the Commission after investigation that a violation has occurred, the Commission is required under paragraph (2) of section 7328(c) to submit to the Board and serve upon the employee a notice by certified mail, return receipt requested, if possible. The notice must: (A) set forth specifically and in detail the charges of alleged prohibited activity; (B) advise the employee of the penalties which may be imposed for violations; (C) specify a period of not less than 30 days within which the employee may file with the Board a written answer to the charges; and (D) advise the employee that unless a written answer is filed within the prescribed time, the Board is authorized to treat the failure to answer as an admission of the charges set forth in the notice and as a waiver by the employee of the right to a hearing on the charges.

Paragraph (3) of section 7328(c) establishes a separate procedure for cases concerning elected officials or employees appointed by the President against whom the Board has no authority to direct disciplinary action. The committee does not intend for the Board to adjudicate cases concerning elected Federal officials. The only individuals to whom the procedure under paragraph (3) applies are: (A) the Vice President; (B) an employee appointed by the President by and with the advice and consent of the Senate; (C) an employee whose appointment is expressly required by statute to be made by the President; (D) the Mayor of the District of Columbia; or (E) the Chairman or a member of the Council of the District of Columbia. If it appears to the Commission that a violation of section 7323, 7324, or 7325 has been committed by one of these individuals, it is required to refer the case to the Attorney General and to report the nature and details of the violation to the President and to the Congress.

Subsection (d) of section 7328 prescribes the procedures for hearings concerning violations of sections 7323, 7324, and 7325.

Paragraph (1) of section 7328(d) provides that if a written answer is not duly filed within the time allowed therefor, the Board is authorized to issue its final decision and order without further proceedings.

If an answer is duly filed, paragraph (2) requires a hearing on the record conducted by a hearing examiner appointed under section 3105 of title 5. Except as otherwise expressly provided under subchapter III, the hearing shall be conducted in accordance with the requirements of subchapter II of chapter 5 of title 5 (formerly the Administrative Procedure Act). Paragraph (2) further requires that the hearing be commenced within 30 days after the answer is filed, and that it be conducted without unreasonable delay. As soon as possible after the conclusion of the hearing, the hearing examiner is required to serve his recommended decision upon the Board, the Commission, and the employee, with notice that exceptions to such decision may be filed within 30 days. The Board is required to issue its final decision within 60 days after the recommended decision is served.

The last sentence in paragraph (2) provides that an employee shall not be removed from active duty by reason of the alleged violation of subchapter III before the effective date of the Board's final order.

Subsection (e) of section 7328 authorizes the Board to issue subpoenas, order depositions, and compel testimony of an employee.

Paragraph (1) of section 7328(e) authorizes any member of the Board, upon written request of the Commission or an employee who is charged, to require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence, which is relevant to the proceeding or investigation. Paragraph (1) further authorizes any member of the Board and any hearing examiner authorized by the Board to administer oaths, examine witnesses, and receive evidence. In the case of a refusal to obey a subpoena, the Board is authorized to seek judicial enforcement in the United States district court for the judicial district where the subpoena is served or where the person subject to the subpoena resides. Failure to obey a court order enforcing the subpoena may be punished as a contempt of court.

Paragraph (2) of section 7328(e) authorizes the Board (or a member designated by the Board) to order the taking of written depositions which shall be subscribed by the deponent.

Paragraph (3) of section 7328(e) authorizes the Board to compel the testimony or production of evidence by an employee notwithstanding any claim of the privilege against self-incrimination. Paragraph (3) further provides that no employee, having claimed the privilege against self-incrimination, shall be prosecuted or subjected to any penalty or forfeiture for or on account of the matter about which the employee has testified or produced evidence and, in addition, that no compelled testimony or evidence shall be used as evidence in any criminal proceeding (other than a proceeding for perjury) against the employee in any court.

Section 7328(f) provides for judicial review of an order of the Board. An employee upon whom a penalty is imposed is permitted 30 days from the issuance of the Board's order to institute an action for review in the United States District Court for the District of Columbia or in the district court for the judicial district in which the employee resides or is employed. An order of the Board may be stayed only upon an order of the court.

Upon receiving the required copy of the summons and complaint, the Board is required to certify and file with the court the record of the proceeding. If, upon application, the court determines to its satisfaction that (1) additional evidence may materially effect the result of the proceeding, and (2) there were reasonable grounds for failure to adduce the evidence at the administrative hearing, it may order further proceedings before the Board, and if further proceedings are ordered, the Board may modify its original findings of fact or its order and shall file with the court such modified findings or order. The Board's findings of fact are conclusive if supported by substantial evidence. If the court determines that the order is not in accordance with law it shall remand the proceeding to the Board with appropriate instructions and may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred by the employee.

Section 7328(g) provides that the Commission or the Board, in its discretion, may proceed with an investigation or proceeding notwith-



standing the fact that a concurrent criminal investigation is in progress. The committee recognizes that many violations of this subchapter may also constitute violations of various criminal provisions. While it has generally been the practice in the past to hold a civil investigation in abeyance pending the results of a criminal investigation into the same or related matters, the usual result in cases involving alleged illegal political activities has been a decision not to proceed with a criminal prosecution and a concomitant delay of 12 to 18 months in the civil investigation. In view of this experience, it is the committee's belief that in most instances prompt resolution of proceedings under subchapter III is of primary importance, and such proceedings generally should not be interrupted or delayed.

#### *Penalties*

Section 7329 sets forth the penalties which the Board may order in the case of an employee who is found to have violated any provision restricting activities of employees under sections 7323, 7324, and 7325, and specifies the manner in which the penalty shall be imposed.

Subsection (a) provides that, subject to and in accordance with the procedures for investigation and hearing under section 7328, the Board shall, upon finding that an employee has violated any provision of section 7323, 7324, or 7325 of title 5, enter a final order directing disciplinary action against the employee. It should be noted that any order of the Board directing such action must, in accordance with section 7327 (f), be made by a majority vote of the Board.

The three paragraphs of subsection (a) set forth the range of disciplinary action which the Board may order. Under paragraph (1) the Board may order the removal of an employee and, in addition if removal is ordered, the Board shall prescribe a period of time during which the employee may not be reemployed in any position (other than an elected position) in which the employee would be subject to the provisions of subchapter III.

Under paragraph (2) of subsection (a) the Board may order the suspension without pay of an employee for such period as the Board may prescribe. Under paragraph (3) of subsection (a) the Board may, in its discretion order lesser forms of penalties as it deems appropriate.

The committee recognizes that certain violations are necessarily more serious than others and intends that the penalty provisions of subsection (a) give complete discretion to the Board with regard to the severity of the penalty to be imposed so that whatever penalty is ordered may be tailored to the nature of the actual violation.

Subsection (b) requires the Board to notify the Commission, the employee, and the employing agency of any penalty it has imposed. It is then the responsibility of the employing agency to effect the disciplinary action, and that agency is required to certify to the Board the measures it has undertaken to implement the penalty ordered by the Board.

#### *Educational program; reports*

Subsection (a) of section 7330 requires the Commission to establish and conduct a continuing program to inform all employees of their rights of political participation and to educate employees with respect to those political activities which are prohibited. It is the committee's

intent that the Commission take all necessary steps to insure that employees understand the law with regard to political activities, particularly with regard to which activities are permitted and which are prohibited, in order that employees may, to the maximum extent permissible, engage in political activities they so choose.

The last three sentences of subsection (a) as added by the committee amendment, further require the Commission to annually inform each employee, individually in writing, of each employee's political rights and the restrictions under subchapter III.

The Commission may determine the appropriate date for providing the required information to each employee, but in order to insure that the information is provided at a useful time, the date chosen by the Commission may not be less than 60 days prior to the earliest primary election for State or Federal elective office in the State where an employee is employed. If a State has no primary election, the date of the earliest general election is determinative. For purposes of this section, the term "State" includes the District of Columbia, and the Commonwealths, territories, and possessions of the United States. The manner in which the required information is provided to each employee is left to the administrative discretion of the Commission, so long as appropriate written information is provided to every employee personally.

Subsection (b) of section 7330 requires the Commission to submit, on or before March 30 of each calendar year, a report regarding the discharge of its responsibilities under subchapter III during the preceding calendar year. The report is to be submitted to the Speaker of the House of Representatives and the President pro tempore of the Senate for referral to the appropriate committees of the Congress. Each report is required to include information concerning; (1) the number of investigations conducted under section 7328 and the results of those investigations; (2) the name and position or title of each individual involved, and the funds expended by the Commission, in carrying out the educational program required under subsection (a); and (3) an evaluation of the educational program which describes the manner in which the Commission has carried out the program and the effectiveness of the program with regard to insuring that employees understand their political rights and the restrictions under subchapter III.

#### *Regulations*

Section 7331 requires the Civil Service Commission to prescribe such rules and regulations as may be necessary to carry out its responsibilities under this subchapter. It should be noted that under section 7327(h) the Board on Political Activities of Federal Employees is required to prepare and publish rules for the conduct of its activities. Rules and regulations promulgated by the Commission under this section may pertain only to matters within the responsibility and authority of the Commission, as provided by this subchapter, such as investigatory procedures to be followed by the Commission and Commission interpretations of the statutory restrictions on political activities.

#### *Technical and conforming amendments*

Subsection (b) of section 2 of the bill contains several technical and conforming amendments to title 5, United States Code.

Paragraph (1) of subsection (b) amends section 8332(k) (1), relating to civil service retirement coverage, section 8706(e), relating to civil service life insurance coverage, and section 8906(e) (2), relating to civil service health insurance coverage, by inserting a reference to leave without pay granted under section 7326(a) of title 5, as amended by this bill, in each of those sections. The effect of these amendments is to permit an employee who is a candidate and who is granted leave without pay under section 7326(a) of title 5, as amended by the bill, to elect, within 60 days after entering on leave without pay, to continue under the civil service retirement, life insurance, or health insurance programs.

An employee who elects to continue in one or more of those programs is required to arrange through his employing agency to pay currently into the appropriate fund an amount equal to the employee and the agency contributions. An employee who so elects may continue in a program for as long as that employee remains in a leave without pay status. With regard to retirement benefits, failure of an employee to make the required election precludes the period spent on leave without pay from being included as creditable service for retirement purposes. With regard to health and life insurance benefits, the failure of an employee to make an election will result in termination of coverage under those respective programs only if the employee continues on leave without pay for longer than 12 months. The provisions of subsection (b) of section 2 relating to retirement, health insurance, and retirement coverage, accord identical treatment to employees who enter on leave without pay for purposes of engaging in candidacy for elective office as is presently accorded to employees who enter on leave without pay to serve as officers of employee organizations.

Section 2(b) (2) amends section 3302 of title 5, relating to the President's authority to prescribe rules for necessary exceptions from certain provisions of title 5, by striking out the references to sections 7321 and 7322 in existing subchapter III of chapter 73 of title 5. Under the new subchapter III, as revised by the bill, all exceptions from the provisions of that subchapter are expressly set forth in the subchapter itself. Accordingly, no authority for additional exceptions is deemed necessary.

Section 2(b) (3) amends section 1308(a) of title 5, relating to annual reports of the Civil Service Commission, by striking out paragraph (3) relating to reports of the Commission concerning its actions under existing section 7325 of title 5. The reporting requirements of section 7330 of title 5, as provided by the bill, supersede the existing reporting requirements. The remaining paragraph of section 1308(a) is appropriately redesignated.

Section 2(b) (4) corrects an existing technical error in the second sentence of section 8332(k) (1) by striking out "second" and inserting in lieu thereof "last".

Section 2(b) (5) of the bill amends the section analysis for subchapter III of chapter 73 of title 5 to reflect the changes made by section 2(a) of the bill.

#### *Amendments to the Criminal Code*

Section 2(c) of the bill amends sections 602 and 607 of title 18, United States Code, relating to solicitations and making of political

contributions, by adding a new sentence at the end of each section to provide that those sections do not apply to any activity of an employee, as defined in section 7322(1) of title 5, unless such activity is prohibited by section 7324 of that title. Since section 7324 of the bill, relating to solicitations and making of political contributions, permits employees to engage in certain activities which are presently prohibited under sections 602 and 607, this amendment is necessary to insure that an employee is not criminally liable for an activity that, although permissible under the bill, would, except for this amendment, be prohibited under section 602 or 607. It should be noted that the amendments to the criminal provisions pertain only to activities by "employees" as defined under section 7322(1) of title 5. Accordingly, the criminal prohibitions applicable to other individuals who are covered by the prohibitions in sections 602 and 607 of title 18, remain unchanged.

*Amendments to other laws*

Section 2(d) of the bill is a conforming amendment which amends section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d), relating to the appointment of Federal voting examiners, by striking out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity", and inserting in lieu thereof "the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities".

Section 2(e) is a conforming amendment which amends sections 103(a) (4) (D) and 203(a) (4) (D) of the District of Columbia Public Education Act, relating to the employment of officers and educational employees of Federal City College and the Washington Technical Institute, by striking out "sections 7324 through 7327 of title 5" and inserting in lieu thereof "section 7325 of title 5".

*Effective date*

Section 2(f) provides that the amendments made by section 2 of the bill shall take effect on the ninetieth day after the date of enactment of the act.

**COSTS**

Past experience indicates that the nature and number of the cases requiring adjudication by the Board will be few. Accordingly, the bill provides for personnel and administrative support to be furnished by the Civil Service Commission and the General Services Administration. The committee anticipates, therefor, that the provisions relating to the Board will not result in any significant cost to the Federal Government.

The investigation of allegations of violations will be conducted by the Civil Service Commission the same as under the existing law. The committee has no information on which to base an estimate of the cost of administering this legislation.

**COMPLIANCE WITH CLAUSE 2(1) (3) OF RULE XI**

With respect to the requirements of clause 2(1) (3) of Rule XI of the House of Representatives—

(A) The Subcommittee on Employee Political Rights and Intergovernmental Programs is vested under Committee Rules with

legislative and oversight jurisdiction and responsibility over the subject matter and conducted extensive hearings on the matter. The subcommittee findings and recommendations in connection with its oversight responsibilities are embodied in the bill as reported;

(B) The bill does not provide new budget authority or new or increased tax expenditures and thus a statement required by section 308(a) of the Congressional Budget Act of 1974 is not necessary;

(C) No estimate and comparison of costs has been received by the committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974; and

(D) The committee has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 2(b)(2) of Rule X.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the committee has concluded that the amendments made by H.R. 8617 will not result in any significant cost or inflationary impact on prices and costs in the operation of the national economy.

#### ADMINISTRATIVE VIEWS

Set forth below are the reports on this legislation from the Office of Management and Budget, the U.S. Civil Service Commission, the U.S. Postal Service, the Comptroller General of the United States, the Internal Revenue Service, the Department of the Treasury, and the Department of Justice.

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
*Washington, D.C., April 2, 1975.*

HON. DAVID N. HENDERSON,  
*Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on H.R. 719, H.R. 1306, H.R. 1326, H.R. 1675, and H.R. 3000, all bills primarily concerned with political activity of Federal employees.

The principal purpose of these bills is to repeal the restrictions in existing law on active participation by Federal employees in partisan political activities. In its report, the Civil Service Commission states a number of reasons for strongly opposing elimination of such restrictions.

We concur in the views expressed by the Civil Service Commission and, accordingly, strongly recommend against enactment of any of these bills.

Sincerely,

JAMES F. C. HYDE, Jr.,  
*Acting Assistant Director for Legislative Reference.*

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., March 24, 1975.

Hon. DAVID N. HENDERSON,  
*Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your letter requesting the Commission's views on H.R. 3000, H.R. 1306, and H.R. 1675, bills "To restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes"; on H.R. 1326, a bill "To amend title 5, United States Code, to permit Federal officers and employees to take an active part in political management and in political campaigns;" and on H.R. 719, a bill "To amend, title 5, United States Code, to permit Federal, State and local officers and employees to take an active part in political management and in political campaigns."

The Commission opposes enactment of these bills for several reasons.

In our opinion, the primary thrust of these bills is to repeal the existing restrictions on political activities as set forth at 5 U.S.C. 7324(a)(2). This provision prohibits Federal employees and employees of the District of Columbia from participation in partisan political management and partisan political campaigns.

A secondary thrust of these bills, with the exception of H.R. 1326 and H.R. 719, is to revise and expand 5 U.S.C. 7323 so as to clarify responsibilities and procedures under this section. The Commission does not disagree with the basic intent of the proposed revision. However, we do note that there is no indication in subsection (c) of section 7323 as to action to be taken, if any, concerning those employees in the excepted service who are not Presidential appointees. Further the provision that an employee may "make a contribution to any candidate" may conflict with 18 U.S.C. 607, administered by the Department of Justice, which prohibits an employee from giving to a Senator or Member of or Delegate to Congress "money or other valuable thing on account of or to be applied to the promotion of any political object." Additionally, a secondary thrust of H.R. 719 is to repeal the restriction on candidacy for elective office as set forth at 5 U.S.C. 1502(a)(3). This prohibition applies to State or local officers or employees whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency.

The Commission's major area of concern, however, is with the primary thrust of these bills which would allow employees virtually unlimited political activity, both partisan and nonpartisan, even at the national level. This goes far beyond the proposals to liberalize the political activity restrictions as recommended by the Commission on Political Activity of Government Personnel.

Where advancement in the public service is predicated exclusively upon merit, the entire society benefits from a more efficient and honest public service. Since 1883, this Commission, acting at the direction of the President and under Congressional enactments, has endeavored to insure that Federal employment and Federal personnel management are anchored on the principle of merit, free from the influence of political partnership.

We are convinced that some restriction on the ability of public employees to identify themselves prominently with partisan political party success is essential to an effective merit system. While the political activity of specific employees may appear to be innocuous in itself, the effect of such activity generally is that public employees become identified with the aspirations of political parties and candidates, and partisan considerations are injected into the career service. The identification of a civil servant with a political party through active participation in party affairs compromises that employee in the eyes of the public, and most certainly in the eyes of an opposing party during a change in administrations. Competition among employees for advancement and favor based on their contribution of money or services to political parties would also detract from the efficient administration of public business. Our conclusion is that the intrusion of partisan considerations into the career Federal service, even in appearance, would constitute a devastating blow to merit concepts, and to employee morale as well.

We, of course, favor the retention of the prohibition on the misuse of official authority to influence elections, as well as the restrictions on the solicitation and exchange of political contributions among Federal officers and employees. However, in our view, those limitations alone, even as revised and expanded by H.R. 3000, H.R. 1306 and H.R. 1675, are wholly inadequate to protect employees from the subtle pressures that would impel them to engage in other forms of political activity in order to protect or enhance their employment situation. Without the protection of a public policy that limits the political activities of public employees, an employee would be vulnerable to indirect influence to support the political party or candidates favored by those in a position to affect the employee's government career. Under current restrictions everyone knows that a covered employee cannot serve political purposes, except at the risk of loss of employment. This protection of the Federal employee would be discarded by the proposed legislation.

Similar restrictions, which previously applied to State and local employees in Federally financed programs, were repealed by section 401 of the Federal Election Campaign Act Amendments of 1974 (P.L. 93-443). The restriction against political management and political campaigning was replaced by a prohibition against being a candidate for elective office. It was our view at the time that amendment was passed (without public hearings of any kind), and it continues to be our view, that such a drastic change in the law would be seriously detrimental to the maintenance and operation of effective merit systems on the State and local levels, and would be contrary to the purpose and spirit of the original political activity legislation.

We believe that to go further, as would H.R. 719, and repeal the remaining prohibition against candidacy for elective office, would be an error of major proportions and would result in further impairment of effective merit systems at the State and local levels.

We think it significant that after nearly a year of study of the Hatch Act, the Commission on Political Activity of Government Personnel concluded that protection of a career system based on merit not only "requires strong sanctions against coercion . . . [but] also requires some limits on the role of the government employee in politics." Volume I, Report of the Commission on Political Activity of Government Personnel-Recommendations, page 3.

Apparently employees, too, feel some apprehension regarding the effect of amendments that would permit more political activity on their part. A survey of Federal employees, conducted by the same Commission in 1967, disclosed that more than half (52%) of those contacted believe that such changes would effect promotions, decisions, job assignments, and similar actions. Of the State employees surveyed, a fairly high percentage (42.3%) felt that the merit system would be hindered if all restrictions on political activity were removed. Volume II, Report of the Commission on Political Activity of Government Personnel-Research, pages 21 and 78 (1968). We believe the employees' fears stem from a realistic view of politics in relation to the public service.

The foregoing should in no way, of course, be construed as a total indictment against political activity of Federal employees. We would note, for example, that under existing law Federal employees are free to engage in a wide variety of activities. The Hatch Act does not circumscribe the entire field of political activity, but, rather, carefully directs its prohibitions to what Congress regarded as particular sources of danger to the public service, namely, direct participation by employees in the management and campaigns of major political parties. A wide range of freedom to participate in the political processes of the Nation, State, and the local community is permitted under the existing law.

Accordingly, the Commission opposes enactment of these bills.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,  
*Chairman.*

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U.S. CIVIL SERVICE COMMISSION,  
*Washington, D.C., June 24, 1975.*

HON. DAVID N. HENDERSON,  
*Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: On March 25, 1975, when I testified before the Subcommittee on Employee Political Rights and Intergovernmental Programs on H.R. 3000, "Federal Employees' Political Activities Act of 1975," it was suggested by Mr. Wilson that it would be helpful if we could provide a section-by-section analysis of the proposed bill. We previously submitted a bill report expressing our disagreement with the bill generally. We are herewith providing a section-by-section analysis as requested by Mr. Wilson.

Section 2 of the proposed bill, which would amend 5 U.S.C. 7323, provides that employees in an Executive agency, Presidential appointees, Members of Congress, and officers of the uniformed services "may not request or receive from, or give to" any other such employee, appointee, Member, or officer "a thing of value for political purposes," except that "an employee may freely and voluntarily make a contribution to any candidate for public office of his own volition."



The proposed section would extend to Presidential appointees (including those requiring the advice and consent of the Senate), Members of Congress, and officers of the uniformed services, the same restrictions on requesting, receiving, and giving political contributions as are currently applicable to employees in Executive agencies. The proposed section would also give to the Commission the responsibility for processing complaints arising under the section, conducting appropriate investigations, and determining whether a violation has in fact occurred.

The Commission is in agreement with the basic intent of this section. However, we note that while the action to be taken by the Commission in cases involving violations on the part of competitive service employees and Presidential appointees is made clear in subsections (c) (1) and (c) (2), there is no indication as to what action is to be taken in cases involving employees in the excepted service who are not Presidential appointees. Such employees are subject to the section by virtue of being employees "in an Executive agency," but the proposed bill does not set forth the action to be taken by the Commission when it finds a violation on the part of such an employee. We would recommend, therefore, that the proposed section be amended so that the Commission can impose a penalty, such as for competitive service employees, or notify the head of the employing agency of the Commission's determination of a violation and the penalty deemed to be appropriate.

We would also point out that section 607 of title 18, United States Code, which is within the jurisdiction of the Department of Justice, prohibits an employee from "directly or indirectly giv[ing] . . . to any Senator or Member of or Delegate to Congress . . . any money or other valuable thing on account of or to be applied to the promotion of any political object . . ." We have consistently advised employees that they may make voluntary contributions to the duly constituted campaign committees of any candidate, including the campaign committees of incumbent Senators and Members of Congress. Therefore, in order to avoid any uncertainty, we would recommend that the provision of proposed section 2 which states that ". . . an employee may freely and voluntarily make a contribution to any candidate for public office on his own volition . . ." be amended to read ". . . any employee may make a voluntary contribution to a political party or organization, including the duly constituted campaign committee of any candidate."

Section 3 of the proposed bill amends 5 U.S.C. 7234, which presently prohibits the misuse of an employee's official authority or influence to interfere with or affect the result of an election, and also prohibits employees from taking an active part in political management and political campaigns. The proposed bill would continue the present prohibition on misuse of official authority and influence. In our view, and based on our enforcement experience, this provision is not adequate as an "anti-coercion" provision, yet it is the only "anti-coercion" provision contained in the proposed bill. We feel that it is too vague in its meaning and there is no reasonable guidance in the present law or the proposed bill as to what is required to affect or interfere with the result of an election. It should be noted that the political activity provisions applicable to State and local employees working in Fed-

erally funded programs contain, in addition to a prohibition on misuse of official authority or influence [5 U.S.C. 1502(a)(1)], a separate prohibition which states that a covered employee may not "directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes." We would strongly recommend that a similar provision be included in any future legislation relative to the political activity of Federal employees. We would also recommend the inclusion of a provision which would establish a presumption of coercion whenever a superior solicits a subordinate employee to make a political contribution or to engage in any form of political activity.

Section 3 would also have the effect of repealing the current prohibition on employees taking an active part in political management and political campaigns. It would set forth some nine specifically permitted activities, including "candidacy for nomination or election to any National, State, county, or municipal office." We have previously presented our views with respect to a total relaxation of the management and campaigning restrictions, that being the major thrust of my March 25 testimony before the Subcommittee on this bill. Suffice it to say here that we view the particular section of the bill, if enacted, as a very real and serious threat to the maintenance of an impartial and effective career service.

Section 4 of the bill retains the current minimum penalty of thirty days' suspension without pay for violation of section 7324. The same penalty provisions would apply to violations of proposed section 7323. Currently, 5 U.S.C. 7323 specifies that an employee who violates that section will be removed from the service. Proposed section 4 would require that an employee would be subject to removal for violation of sections 7323 and 7324 only upon unanimous vote of the Commission that removal is warranted. This is a departure from the current law which makes removal mandatory unless the Commissioner unanimously determines that a lesser penalty is warranted. Since the only cases which arise under the proposed bill would be cases involving misuse of official authority in violation of proposed section 7324, or the soliciting, giving, or receiving of contributions in violation of proposed section 7323, it is our view that removal should be the mandatory penalty unless the Commission determines by unanimous vote that a lesser penalty would be appropriate. In this regard, it is our view that the Commission should be given the discretion to assess a penalty of less than 30 days, e.g., 5 days without pay, if in their judgment such lesser penalty would be more equitable under the circumstances of the case. This would be particularly important if the proposed bill were to be amended so that some management and campaign activities would still be prohibited.

Section 5 would repeal current sections 7326 and 7327 of title 5, United States Code. 5 U.S.C. 7326 currently provides that the prohibition on taking an active part in political management and political campaigns does not preclude activity in connection with nonpartisan campaigns and elections, i.e., campaigns and elections in which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected. 5 U.S.C. 7327 provides for the designation, by the Commission,

of excepted localities impacted with Federal employees, to permit employee-residents to take an active part in partisan campaigns and elections at the local level, to the extent the Commission determines to be in the domestic interest. Both of the above referenced sections would be unnecessary under the proposed bill, since there would no longer be a prohibition on partisan political management and campaigning. As noted above we are in disagreement with the repeal of the management and campaigning provision.

Section 6 of the proposed bill would amend section 602 of title 18, United States Code, to require the Attorney General to prosecute violations of 5 U.S.C. 7323 referred by the Commission, or to report to the Congress, in writing, the reasons such prosecution was declined. We have no objection to such an amendment. However, jurisdiction of title 18 is solely within the Department of Justice.

In conclusion, while we have no objections to certain sections of the proposed bill, we do object strongly to that provision which would eliminate the existing prohibition on partisan management and campaigning.

By direction of the Commission:

Sincerely yours,

ROBERT E. HAMPTON,  
*Chairman.*

U.S. CIVIL SERVICE COMMISSION,  
*Washington, D.C., July 17, 1975.*

HON. DAVID N. HENDERSON,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The Civil Service Commission desires to submit for consideration by the Committee our comments with respect to the Committee Print of July 7, 1975, cited as the "Federal Employees' Political Activities Act of 1975," which was ordered reported in the form of a clean bill by the Subcommittee on Employee Political Rights and Intergovernmental Programs.

This Commission has, over the years, consistently been opposed to any legislation which would remove or substantially relax the political activity restrictions which current Federal law places on Federal employees in the Executive branch. This opposition is based, not on any misguided interest in retaining a programmatic responsibility, but, rather, on a sincere and historically founded belief that a relaxation of the political activity restrictions would pose a very real and serious threat to the maintenance of a career merit system. The enactment of such legislation would deprive employees of the protections which they now enjoy from the subtle, sometimes even unintended, pressures which can be and would be brought to bear.

As I testified before the Subcommittee on March 25, 1975, it is an empty hope that provisions against coercion, no matter how tightly drawn they might be, can alone protect the merit system against the encroachment of partisan political influences. It is the prohibition against active participation in partisan political management and partisan political campaigns which constitutes the most significant

safeguard against coercion—whether from superiors in the Federal service, or from outsiders. Employees realize that partisan political activity can subject them to removal, and know that those persons who could request them to be politically active have no greater threat than that. Because of the management and campaigning provisions of the Hatch Act, most employees know that they need not respond to political requests or suggestions. This entire protective fabric would be destroyed if the prohibitions against political management and campaigning are removed, as is being proposed in the bill to be considered by the Committee. We believe that whatever political activity is permitted to employees will eventually become that which is required of them. We do not believe, as has been stated by the public employee organizations, that Federal employees overwhelmingly, or that even a majority of them, are in favor of repealing the management and campaigning prohibition. We believe the opposite to be true.

Moreover, by limiting the Government employee's involvement in partisan politics, the Hatch Act reduces the likelihood that an employee will allow partisan political views to interfere with the impartial execution of the Government's business. The current Hatch Act makes it impossible for the party in power to turn the Federal work force into an organized instrument for affecting the outcome of elections. Equally important, in our view, is the concern that involvement in partisan political activities on the part of Federal employees, being observed by the public, will erode public confidence in the impartial administration of Federal laws and programs. When the public sees at work a Federal employee who is prominently identified with partisan politics, and at the same time is charged with responsibility for the impartial, nonpartisan execution of public duties, it will inevitably have doubts about that employee's impartiality. One of the frequently made observations concerning the recent "Watergate" revelations, was the manner in which the daily operation of the Government continued uninterrupted, due in large measure to the dedication and efforts of impartial civil servants in the career service. It seems incongruous for the Congress to now seriously entertain a proposal to deprive the Federal service of that shield of impartiality. It seems to us that anything which has the clear potential for undermining the public's confidence in the impartiality and efficiency of the civil service should be rejected.

In addition to these concerns with the proposed bill in general, we would like to direct the Committee's attention to several other of the provisions which we feel are particularly troublesome.

Since, for the purposes of the proposed bill [§ 7322(1)], the President and Vice President are deemed to be employees, they are, unless otherwise specifically excepted, covered by the political activity restrictions applicable to other employees. Thus, under proposed section 7325, they would be prohibited from engaging in any political activity" while on duty, or in any room or building occupied in the discharge of official duties. . . ." An incumbent President would not be permitted, under this provision, to engage in any campaign activities, including campaign planning meetings or making campaign speeches, within his offices at the White House. A question which immediately presents itself, of course, is, when is a President, or a Vice President, not on duty?

We are also troubled by the relaxation on the exchange of contributions among employees which results from section 7324. The Congress has previously recognized the need to restrict any solicitation or receipt of political contributions among employees, regardless of whether there exists a superior-subordinate relationship. The seriousness with which Congress has viewed this matter is evidenced by the existence of prohibitory provisions in the criminal code. Now it is being proposed that even those criminal provisions be amended, and that employees, with the exception of those in a superior-subordinate relationship, be permitted to freely solicit and receive contributions from one another. The possibilities for abuse are obvious. We would point out that the current restrictions do not preclude or inhibit an employee from making a voluntary contribution to the duly constituted campaign organization of any candidate, including that of an incumbent Member of Congress.

We seriously question the effectiveness of enforcement of the prohibition on an employee engaging in campaign or management activities while on duty, if the employee is not required to take a leave of absence from his or her job to become a candidate. Proposed section 7326 would require agencies to grant a leave of absence to an employee-candidate upon request, but does not require the employee to take a leave of absence.

In our view, the requirement that the employees appointed to be Members of the Board on Political Activities of Federal Employees under proposed section 7327 receive the confirmation of a majority of both Houses of Congress, serves no useful purpose and unnecessarily burdens the appointment process. We also have some reservations about the constitutional status of the Board, but would defer to the Department of Justice on that issue. We would also point out that there was no credible evidence introduced during the hearings before the Subcommittee that the Commission's performance of the responsibilities which would now be assumed by the Board has ever been inadequate or subject to serious criticism. We accordingly see no need for a new Board.

We note that no course of action is specified under section 7328 (c) (3) should it appear that the President has committed a violation. We also note that subpoenas and orders for taking depositions can only be issued by Members of the Board [§ 7328 (e) (1) and (2)].

Because we feel strongly that enactment of any legislation of the type embodied in the subject Committee Print would have serious deleterious effects on the impartial administration of and public confidence in the Federal civil service, we strongly urge that the Committee not report the proposed legislation favorably to the House. We should not turn our backs on a 50 year period of American history.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of this bill would not be in accord with the program of the President.

By direction of the Commission:

Sincerely yours,

ROBERT E. HAMPTON,  
*Chairman.*

U.S. POSTAL SERVICE,  
Washington, D.C., May 22, 1975.

HON. DAVID N. HENDERSON,  
Chairman, Committee on Post Office and Civil Service, House of  
Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Postal Service on H.R. 3000, the proposed "Federal Employees' Political Activities Act of 1975."

The management of the Postal Service is dedicated to the concept, implemented by the Postal Reorganization Act, that partisan politics should not be allowed to interfere with the operation of the nation's postal system. We think it would be a mistake for Congress to take any action which could be interpreted or understood as a signal to reinstate the highly political atmosphere in which the old Post Office Department was operated. Accordingly, we recommend against the application to the Postal Service of any legislation such as H.R. 3000 which, we believe, would permit the injection of partisan political considerations into every level of postal operations from the mailroom floor to executive decision-making. As a practical matter it is our judgment that postal employees cannot be permitted to actively and openly participate in partisan politics as anticipated by H.R. 3000 without such activity inevitably becoming an influence in the operation of the Postal Service.

The most serious objection to H.R. 3000, from a postal standpoint, is that it would permit the erosion of the generally accepted idea or understanding that postal officers and employees, as such, are expected to be non-partisan. However, an examination of H.R. 3000 also reveals a number of specific ways in which the bill would permit partisan political activity to impinge upon everyday Federal and postal operations.

For example, as amended by the bill, 5 U.S.C. § 7324(c) (5) and (8) would allow Federal and postal employees to distribute campaign literature, distribute and wear campaign badges and buttons, initiate and sign nominating petitions, and canvass for the signatures of others. In their present form, clauses (5) and (8) would not prohibit campaigning and canvassing in a Federally owned or operated facility; nor would they forbid campaigning and canvassing by employees during working hours, or while in uniform, or while otherwise performing official duties. Similarly, proposed § 7324(c) (9) contains no requirement that an employee who is a candidate for national, state, county or municipal office, or an employee who is elected or appointed to such an office, take an unpaid leave of absence when his candidacy or his official duties unduly infringe upon his Federal job performance. Indeed, proposed § 7324 contains no explicit prohibition against the use of Federal facilities, materials, personnel, or working hours by employees who are taking an active part in political management or in political campaigns.

Obviously, the absence of safeguards in proposed new § 7324 presents significant opportunities for the abuse of Federal and postal resources and employment by employees engaged in political activity. The Government's work will not be done efficiently or economically by employees who are dispensing political literature along with

stamps, or having their secretaries type and duplicate campaign speeches as well as official reports. Moreover, allowing employee political activity during working hours will facilitate improper coercion and "arm twisting" of employees who do not share the political persuasions of their supervisors or fellow employees.

For the reason stated, the Postal Service opposes the enactment of H.R. 3000.

Sincerely,

W. ALLEN SANDERS,  
*Assistant General Counsel, Legislative Division.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., June 10, 1975.*

Hon. DAVID N. HENDERSON,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: By letter of May 5, 1975, you requested our report on H.R. 3000, 94th Congress, 1st Session, a bill "To restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes."

The bill would amend sections 7323, 7324, and 7325 of title 5, United States Code, commonly known as the Hatch Act. Sections 7326 and 7327 of title 5, United States Code, would be repealed.

The proposed amendment of sections 7323 and 7325 would shift emphasis from removal of Federal employees for violations of the Hatch Act to lesser penalties, and correspondingly reduce the protection of Federal civilian employees from improper political solicitations.

The proposed amendment to section 7324 would permit a Federal employee to take an active part in political management or in political campaigns as a private citizen, including candidacy for nomination or election to any National, State, County, or municipal office, without involving his official authority or influence. We question whether this is possible. We believe any active participation by a Federal employee in political activities could involve or give the appearance of a conflict-of-interest situation. Without guidelines of maximum specificity of what constitutes official authority or influence, it would be virtually impossible to monitor or control the political involvement of a Federal employee.

Some modifications of the provisions of the Hatch Act, particularly as they relate to political activity in local communities, appear desirable. Changes of the scope proposed by the bill, however, would place an unmanageable administrative burden on the merit system and would dilute the protections afforded Federal employees by the Hatch Act.

Accordingly, it is recommended that the legislation not be enacted.  
Sincerely yours,

ELMER B. STAATS,  
*Comptroller General of the United States.*

DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE,  
Washington, D.C., May 13, 1975.

HON. DAVID N. HENDERSON,  
*Chairman, House Post Office and Civil Service Committee, House of  
Representatives, Washington, D.C.*

DEAR CHAIRMAN HENDERSON: I understand that Congressman Clay is now conducting a series of hearings by his subcommittee on H.R. 3000, a bill to revise the present Hatch Act, which restricts political activity of government employees. While I was not invited to testify on this legislation, I have read the bill, and testimony about it, including a strong statement in opposition by Chairman Hampton of the Civil Service Commission. It seems to me that if H.R. 3000 passes in its present form, it would damage the appearance of non-partisan objectivity in the conduct of Federal tax administration, which I believe is essential to maintaining public confidence in the Internal Revenue Service.

The Service's top manager in the North-Atlantic Region, Regional Commissioner Elliott Gray, recently testified on the bill before Congressman Clay in New York City. Mr. Gray was appearing in his private capacity as a concerned citizen and life-time civil servant, rather than as a representative of the Administration. I am attaching a copy of his statement, which I believe is an excellent expression of the problems we in Internal Revenue see in H.R. 3000.

The Civil Service Commission has a fine booklet, on the "Do's" and "Don't's" for employee political activity, under the present Hatch Act. The trouble is that too many Federal employees are not familiar with these rules, and they lean over backward and avoid even permissible political activities. It would be helpful if the present specific restrictions, the "Do's" and "Don't's", were spelled out clearly in the law itself, rather than being inferred from a body of Civil Service Commission and court decisions on a vaguely-worded statute.

I also would like to see provision for a positive education program for government employees, on what they can and can't do in political matters. Perhaps this could be jointly undertaken by the Civil Service Commission, agency training officials, and the unions, with materials and training aids provided by government funds. I would also like to see authorization for a flexible range of penalties and corrective actions, administered in accordance with the circumstances of particular cases of infringement on the rules.

What I definitely would not like to see, however, and certainly not in the Internal Revenue Service, is a return to the bad old days when officials and employees whose actions and decisions affect individual members of the public, are themselves candidates for political office while serving in government jobs, or actively campaign for partisan candidates, under party sponsorship. It strikes me as improper for a revenue agent or revenue officer to go out soliciting the public for votes either for himself, as a party candidate, or for a political nominee of a party. That is what H.R. 3000 would allow, and I hope such provisions are deleted before the bill moves further towards enactment.

With kind regards,  
Sincerely,

DONALD C. ALEXANDER.



THE GENERAL COUNSEL OF THE TREASURY,  
Washington, D.C., June 16, 1975.

HON. DAVID N. HENDERSON,  
*Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The Department would like to take this opportunity to comment on H.R. 3000, a bill, "To restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes."

The primary thrust of the bill is to repeal the existing restrictions on political activities as set forth at 5 U.S.C. 7324(a) (2). This provision prohibits Federal employees and employees of the District of Columbia from participation in partisan political campaigns.

While the Department appreciates and lauds the efforts of Congress to increase the political rights of Federal employees, it is particularly concerned with the potential abuses and negative impact that such legislation could have upon the Government's merit system principles and practices. Without the protection of a public policy that limits the political activities of public employees, an employee would be vulnerable to indirect influence to support the political party or candidates favored by those in a position to affect the employee's government career.

Under current restrictions a covered employee cannot serve political purposes, except at the risk of loss of employment. By limiting the Government employee's involvement in partisan political activities, the Hatch Act serves to assure that employees will not be compelled, or feel themselves compelled, to engage in unwanted partisan political activities in order to curry political favor with their superiors and thereby enhance their prospects for continued employment or for advancement. The thin line between voluntary and involuntary contributions and participation would become even more nebulous and unprovable, and the pressures and subtle coercion to which the employee could be subjected greatly increased. This protection of the Federal employee would be taken away by the proposed legislation.

In addition, there are many agencies, including the Department of the Treasury, which have the power under law to acquire information about individuals which can be highly valuable in advancing or defeating the interests of partisan political candidates. To place employees of such agencies in a public, partisan political arena could subject them to improper pressures to divulge or misuse such information and, therefore, tend to compromise them and their agencies. The Department's Internal Revenue Service is one such office wherein the restrictions of the Hatch Act help to build and support the public confidence that is so essential to a voluntary compliance tax system founded on the belief that everybody will pay his or her just share, free of political or other improper consideration or favoritism. To remove those restrictions, as the proposed amendments would, could result in an erosion of public confidence in the impartial administration, not only of the tax system, but also of all government.

When the public sees a Federal employee who is prominently identified with partisan politics, and at the same time charged with respon-

sibility for the impartial, nonpartisan execution of public duties, it will inevitably have doubts about that employee's impartiality. By limiting the Government employee's involvement in partisan politics, the Hatch Act reduces the likelihood that the employee will allow partisan political views to interfere with the impartial execution of the Government's business. To amend the Act, as proposed by H.R. 3000, removes these safeguards.

Any benefits to Federal employees in increased political rights resulting from the liberalization of the Hatch Act by the proposed amendments of H.R. 3000 would be outweighed and overshadowed by the accompanying negative impact on the Government's merit system and on public confidence in the nonpartisan administration of Government operations. The Department of the Treasury, accordingly, strongly opposes enactment of H.R. 3000.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

RICHARD R. ALBRECHT,  
*General Counsel.*

DEPARTMENT OF JUSTICE,  
*Washington, D.C., June 26, 1975.*

HON. DAVID N. HENDERSON,  
*Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 3000, a bill "To restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes."

The chief purpose of H.R. 3000 is to amend the Hatch Act, particularly 5 U.S.C. 7324(a), so as to permit Federal civilian and Postal Service employees to take an active part in political management or in political campaigns in their roles as private citizens and without involving their official authority or influence. Sec. 3(a). Since this provision goes to the heart of the bill, we confine our comments to it.

The phrase "active part in political management or in political campaigns" would be broadly defined (see proposed section 7324(c)), so as to permit participation by Federal employees in political activities such as the following: "Candidacy for service as a delegate in political convention; participation in the deliberations of any primary meeting, mass convention or caucus, addressing the meeting or otherwise taking a prominent part; preparing for, organizing or conducting a political meeting or rally on any partisan political matter; membership in political clubs and organizing of such a club; distributing campaign literature, badges and buttons; publishing or having editorial or managerial connection with partisan political publications; organizing a political parade; initiating and circulating nominating petitions for a partisan candidate, including canvassing for signatures; candidacy for any public office—national, state or at any other local level."

For the purpose of this section, the Hatch Act amendment would also apply to employees of the United States Postal Service. Proposed sec. 7324(d). There is no exemption for components of agencies, such as the Federal Bureau of Investigation of the Department of Justice.

In *U.S. Civil Service Commission v. National Association of Letter Carriers*, 413 U.S. 548 (1973), the Supreme Court recently sustained the constitutionality of 5 U.S.C. 7324(a)(2), which prohibits federal employees from taking an active part in political management or in political campaigns. The Court held that Congress had the power to prevent federal employees from holding a party office; working at the polls; organizing a political party or club; actively participating in fund-raising for a partisan candidate or political party; initiating a partisan nominating petition, soliciting votes for a partisan candidate for public office; or serving as a delegate to a political party convention—in sum, that Congress had authority to regulate various activities (such as H.R. 3000 would expressly permit), and that such regulation is not barred either by the First Amendment or any other provision of the Constitution. 413 U.S. at 556. In overruling these constitutional objections, the Court said (413 U.S. at 564-565):

"It seems fundamental in the first place that employees in the Executive Branch of the Government, or those working for any of its agencies, should administer the law in accordance with the will of Congress, rather than in accordance with their own or the will of a political party. They are expected to enforce the law and execute the programs of the Government without bias or favoritism for or against any political party or group or the members thereof. A major thesis of the Hatch Act is that to serve this great end of Government—the impartial execution of the laws—it is essential that federal employees not, for example, take formal positions in political parties, not undertake to play substantial roles in partisan political campaigns and not run for office on partisan political tickets. Forbidding activities like these will reduce the hazards to fair and effective government. . . .

"There is another consideration in this judgment: it is not only important that the Government and its employees in fact avoid practicing political justice, but it is also critical that they appear to the public to be avoiding it, if confidence in the system of representative Government is not to be eroded to a disastrous extent."

As the Court also pointed out, "Until now, the judgment of Congress, the Executive and the country appears to have been that partisan political activities by federal employees must be limited if the Government is to operate effectively . . . and employees themselves are to be sufficiently free from improper influences." *Id.* at 564. We are not aware of any substantial evidence within our recent experience which requires this judgment to be altered.

Apart from its consequences on federal employees in general, H.R. 3000 would be particularly objectionable so far as the Department of Justice is concerned. Under it, personnel of the Federal Bureau of Investigation would no longer have to abstain from taking an "active part in political management or political campaigns," as that term is defined in the bill. The Department of Justice feels it to be essential to the future success of the FBI that it continue to maintain the public image of complete detachment from political affairs.

For the foregoing reasons, the Department of Justice strongly opposes enactment of H.R. 3000.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

A MITCHELL McCONNELL, JR.,  
*Acting Assistant Attorney General.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

**TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

**PART II—THE UNITED STATES CIVIL SERVICE  
COMMISSION**

\* \* \* \* \*

**Chapter 13—Special Authority**

\* \* \* \* \*

**§ 1308. Annual reports**

(a) The Civil Service Commission shall make an annual report to the President for transmittal to Congress. The report shall include—

(1) a statement of the Commission's actions in the administration of the competitive service, the rules and regulations and exceptions thereto in force, the reasons for exceptions to the rules, the practical effects of the rules and regulations, and any recommendations for the more effectual accomplishment of the purposes of the provisions of this title that relate to the administration of the competitive service;

(2) the results of the incentive awards program authorized by chapter 45 of this title with related recommendations; and

[(3) at the end of each fiscal year, the names, addresses, and nature of employment of the individuals on whom the Commission has imposed a penalty for prohibited political activity under section 7325 of this title with a statement of the facts on which action was taken, and the penalty imposed; and]

[(4)] (3) a statement, in the form determined by the Commission with the approval of the President, on the training of employees under chapter 41 of this title, including—

(A) a summary of information concerning the operation and results of the training programs and plans of the agencies;

(B) a summary of information received by the Commission from the agencies under section 4113(b) of this title; and

(C) the recommendations and other matters considered appropriate by the President or the Commission or required by Congress.

\* \* \* \* \*

### Part III—Employees

\* \* \* \* \*

#### Subpart B—Employment and Retention

\* \* \* \* \*

#### Chapter 33—Examination, Selection, and Placement

\* \* \* \* \*

##### Subchapter I—Examination, Certification, and Appointment

\* \* \* \* \*

##### § 3302. Competitive service; rules

The President may prescribe rules governing the competitive service. The rules shall provide, as nearly as conditions of good administration warrant, for—

(1) necessary exceptions of positions from the competitive service; and

(2) necessary exceptions from the provisions of sections 2951, 3304(a), 3306(a) (1), 3321, 7152, [7153, 7321, and 7322] and 7153 of this title.

Each officer and individual employed in an agency to which the rules apply shall aid in carrying out the rules.

\* \* \* \* \*

##### Subpart F—Employee Relations

\* \* \* \* \*

#### Chapter 73—Suitability, Security, and Conduct

\* \* \* \* \*

##### Subchapter III—Political Activities

Sec.

7321. Political contributions and services.

7322. Political use of authority or influence; prohibition.

7323. Political contributions; prohibition.

7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions.

7325. Penalties.

7326. Nonpartisan political activity permitted.

7327. Political activity permitted; employees residing in certain municipalities.

*SEC.*

7321. *Political participation.*

7322. *Definitions.*

7323. *Use of official authority or influence; prohibition.*

7324. *Solicitation; prohibition.*

7325. *Political activities on duty, etc.; prohibition.*

7326. *Leave for candidates for elective office.*

7327. *Board on Political Activities of Federal Employees.*

7328. *Investigation; procedures; hearing.*

7329. *Penalties.*

7330. *Educational program; reports.*

7331. *Regulations.*

\* \* \* \* \*

### **[Subchapter III—Political Activities**

#### **[§ 7321. Political contributions and services**

[The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so.

#### **[§ 7322. Political use of authority or influence; prohibition**

[The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body.

#### **[§ 7323. Political contributions; prohibition**

[An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes. An employee who violates this section shall be removed from the service.

#### **[§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions**

[(a) An employee in an Executive agency or an individual employed by the government of the District of Columbia may not—

[(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or

[(2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase “an active part in political management or in political campaigns” means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

[(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

[(c) Subsection (a) of this section does not apply to an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

[(d) Subsection (a) (2) of this section does not apply to—

[(1) an employee paid from the appropriation for the office of the President;

[(2) the head or the assistant head of an Executive department or military department;

[(3) an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;

[(4) the Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act; or

[(5) the Recorder of Deeds of the District of Columbia.

#### **§ 7325. Penalties**

[An employee or individual who violates section 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Commission.

#### **§ 7326. Nonpartisan political activity permitted**

[Section 7324(a) (2) of this title does not prohibit political activity in connection with—

[(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

[(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States.

#### **§ 7327. Political activity permitted; employees residing in certain municipalities**

[(a) Section 7324(a) (2) of this title does not apply to an employee of The Alaska Railroad who resides in a municipality on the line of the railroad in respect to political activities involving that municipality.

[(b) The Civil Service Commission may prescribe regulations permitting employees and individuals to whom section 7324 of this title

applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Commission considers it to be in their domestic interest, when—

[(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

[(2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.]

### **Subchapter III—Political Activities**

#### **§ 7321. Political participation**

*It is the policy of the Congress that employees should be encouraged to fully exercise, to the extent not expressly prohibited by law, their rights of voluntary participation in the political processes of our Nation.*

#### **§ 7322. Definitions**

*For the purpose of this subchapter—*

(1) “employee” means any individual, including the President and the Vice President, employed or holding office in—

- (A) an Executive agency,
- (B) the government of the District of Columbia,
- (C) the competitive service, or
- (D) the United States Postal Service or the Postal Rate Commission;

*but does not include a member of the uniformed services;*

(2) “candidate” means any individual who seeks nomination for election, or election, to any elective office, whether or not such individual is elected, and, for the purpose of this paragraph, an individual shall be deemed to seek nomination for election, or election, to an elective office, if such individual has—

(A) taken the action required to qualify for nomination for election, or election, or

(B) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election, or election, to such office;

(3) “political contribution”—

(A) means a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any individual to elective office or for the purpose of otherwise influencing the results of any election;

(B) includes a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a political contribution for any such purpose; and



(C) includes the payment by any person, other than a candidate or a political organization, of compensation for the personal services of another person which are rendered to such candidate or political organization without charge for any such purpose;

(4) "superior" means an employee (other than the President or the Vice President) who exercises supervision of, or control or administrative direction over, another employee;

(5) "elective office" means any elective public office and any elective office of any political party or affiliated organization; and

(6) "Board" means the Board on Political Activities of Federal Employees established under section 7327 of this title.

**§ 7323. Use of official authority or influence; prohibition**

(a) An employee may not directly or indirectly use or attempt to use the official authority or influence of such employee for the purpose of—

(1) interfering with or affecting the result of any election; or  
(2) intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence—

(A) any individual for the purpose of interfering with the right of any individual to vote as such individual may choose, or of causing any individual to vote, or not to vote, for any candidate or measure in any election;

(B) any person to give or withhold any political contribution; or

(C) any person to engage, or not to engage, in any form of political activity whether or not such activity is prohibited by law.

(b) For the purpose of subsection (a) of this section, "use of official authority or influence" includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, compensation, grant, contract, license, or ruling), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, compensation, grant, contract, license, or ruling).

**§ 7324. Solicitation; prohibition**

An employee may not—

(1) give or offer to give a political contribution to any individual either to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

(2) solicit, accept, or receive a political contribution to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

(3) knowingly give or hand over a political contribution to a superior of such employee; or

(4) knowingly solicit, accept, or receive, or be in any manner concerned with soliciting, accepting, or receiving, a political contribution—

(A) from another employee (or a member of another employee's immediate family) with respect to whom such employee is a superior; or

(B) in any room or building occupied in the discharge of official duties by—

(i) an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

(ii) an individual receiving any salary or compensation for services from money derived from the Treasury of the United States.

**§ 7325. Political activities on duty, etc.; prohibition**

(a) An employee may not engage in political activity—

(1) while such employee is on duty,

(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing, or

(3) while wearing a uniform or official insignia identifying the office or position of such employee.

(b) The provisions of subsection (a) of this section shall not apply to—

(1) the President and the Vice President; or

(2) an individual—

(A) paid from the appropriation for the White House Office,

(B) paid from funds to enable the Vice President to provide assistance to the President, or

(C) on special assignment to the White House Office, unless such individual holds a career or career-conditional appointment in the competitive service.

**§ 7326. Leave for candidates for elective office**

(a) An employee who is a candidate for elective office shall, upon the request of such employee, be granted leave without pay for the purpose of allowing such employee to engage in activities relating to such candidacy.

(b) Notwithstanding section 6302(d) of this title, an employee who is a candidate for elective office shall, upon the request of such employee, be granted accrued annual leave for the purpose of allowing such employee to engage in activities relating to such candidacy. Such leave shall be in addition to leave without pay to which such employee may be entitled under subsection (a) of this section.

**§ 7327. Board on Political Activities of Federal Employees**

(a) There is established a board to be known as the Board on Political Activities of Federal Employees. It shall be the function of the Board to hear and decide cases regarding violations of sections 7323, 7324, and 7325 of this title.

*(b) The Board shall be composed of 3 members—*

*(1) one member of which shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the President and who shall serve as Chairman of the Board;*

*(2) one member of which shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the Speaker of the House of Representatives, after consultation with the majority leader of the House and the minority leader of the House; and*

*(3) one member of which shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the President pro tempore of the Senate, after consultation with the majority leader of the Senate and the minority leader of the Senate.*

*(c) Members of the Board shall be chosen on the basis of their professional qualifications from among individuals who, at the time of their appointment, are employees (as defined under section 7322(1) of this title).*

*(d) (1) Members of the Board shall serve a term of 3 years, except that of the members first appointed—*

*(A) the Chairman shall be appointed for a term of 3 years,*

*(B) the member appointed under subsection (b) (2) of this section shall be appointed for a term of 2 years, and*

*(C) the member appointed under subsection (b) (3) of this section shall be appointed for a term of 1 year.*

*An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member such individual will succeed. Any vacancy occurring in the membership of the Board shall be filled in the same manner as in the case of the original appointment.*

*(2) If an employee who was appointed as a member of the Board is separated from service as an employee he may not continue as a member of the Board after the 60-day period beginning on the date so separated.*

*(e) The Board shall meet at the call of the Chairman.*

*(f) All decisions of the Board with respect to the exercise of its duties and powers under the provisions of this subchapter shall be made by a majority vote of the Board.*

*(g) A member of the Board may not delegate to any person his vote nor, except as expressly provided by this subchapter, may any decision-making authority vested in the Board by the provisions of this subchapter be delegated to any member or person.*

*(h) The Board shall prepare and publish in the Federal Register written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).*

*(i) The Civil Service Commission shall provide such clerical and professional personnel, and administrative support, as the Chairman of the Board considers appropriate and necessary to carry out the Board's functions under this subchapter. Such personnel shall be responsible to the Chairman of the Board.*

(j) *The Administrator of the General Services Administration shall furnish the Board suitable office space appropriately furnished and equipped, as determined by the Administrator.*

(k) (1) *Members of the Board shall receive no additional pay on account of their service on the Board.*

(2) *Members shall be entitled to leave without loss of or reduction in pay, leave, or performance or efficiency rating during a period of absence while in the actual performance of duties vested in the Board.*

**§ 7328. Investigation; procedures; hearing**

(a) *The Civil Service Commission shall investigate reports and allegations of any activity prohibited by section 7323, 7324, or 7325 of this title.*

(b) *As a part of the investigation of the activities of an employee, the Commission shall provide such employee an opportunity to make a statement concerning the matters under investigation and to support such statement with any documents the employee wishes to submit. An employee of the Commission lawfully assigned to investigate a violation of this subchapter may administer an oath to a witness attending to testify or depose in the course of the investigation.*

(c) (1) *If it appears to the Commission after investigation that a violation of section 7323, 7324, or 7325 of this title has not occurred, it shall so notify the employee and the agency in which the employee is employed.*

(2) *Except as provided in paragraph (3) of this subsection, if it appears to the Commission after investigation that a violation of section 7323, 7324, or 7325 of this title has occurred, the Commission shall submit to the Board and serve upon the employee a notice by certified mail, return receipt requested (or if notice cannot be served in such manner, then by any method calculated to reasonably apprise the employee)—*

(A) *setting forth specifically and in detail the charges of alleged prohibited activity;*

(B) *advising the employee of the penalties provided under section 7329 of this title;*

(C) *specifying a period of not less than 30 days within which the employee may file with the Board a written answer to the charges in the manner prescribed by rules issued by the Board; and*

(D) *advising the employee that unless the employee answers the charges, in writing, within the time allowed therefor, the Board is authorized to treat such failure as an admission by the employee of the charges set forth in the notice and a waiver by the employee of the right to a hearing on the charges.*

(3) *If it appears to the Commission after investigation that a violation of section 7323, 7324, or 7325 of this title has been committed by—*

(A) *the Vice President;*

(B) *an employee appointed by the President by and with the advice and consent of the Senate;*

(C) *an employee whose appointment is expressly required by statute to be made by the President;*

(D) *the Mayor of the District of Columbia; or*

(E) the Chairman or a member of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act; the Commission shall refer the case to the Attorney General for prosecution under title 18, and shall report the nature and details of the violation to the President and to the Congress.

(d) (1) If a written answer is not duly filed within the time allowed therefor, the Board may, without further proceedings, issue its final decision and order.

(2) If an answer is duly filed, the charges shall be determined by the Board on the record after a hearing conducted by a hearing examiner appointed under section 3105 of this title, and, except as otherwise expressly provided under this subchapter, in accordance with the requirements of subchapter II of chapter 5 of this title, notwithstanding any exception therein for matters involving the tenure of an employee. The hearing shall be commenced within 30 days after the answer is filed with the Board and shall be conducted without unreasonable delay. As soon as practicable after the conclusion of the hearing, the examiner shall serve upon the Board, the Commission, and the employee such examiner's recommended decision with notice to the Commission and the employee of opportunity to file with the Board, within 30 days after the date of such notice, exceptions to the recommended decision. The Board shall issue its final decision and order in the proceeding no later than 60 days after the date the recommended decision is served. The employee shall not be removed from active duty status by reason of the alleged violation of this subchapter at any time before the effective date specified by the Board in its final order.

(e) (1) At any stage of a proceeding or investigation under this subchapter, the Board may, at the written request of the Commission or the employee, require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the proceeding or investigation at any designated place, from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. Any member of the Board may issue subpoenas and members of the Board and any hearing examiner authorized by the Board may administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may, upon application by the Board, issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(2) The Board (or a member designated by the Board) may order the taking of depositions at any stage of a proceeding or investigation under this subchapter. Depositions shall be taken before an individual designated by the Board and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(3) *An employee may not be excused from attending and testifying or from producing documentary or other evidence in obedience to a subpoena of the Board on the ground that the testimony or evidence required of the employee may tend to incriminate the employee or subject the employee to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the employee is compelled to testify or produce evidence. No employee shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the employee is compelled, after having claimed the privilege against self-incrimination, to testify or produce evidence, nor shall testimony or evidence so compelled be used as evidence in any criminal proceeding against the employee in any court, except that no employee shall be exempt from prosecution and punishment for perjury committed in so testifying.*

(f) *An employee upon whom a penalty is imposed by an order of the Board under subsection (d) of this section may, within 30 days after the date on which the order was issued, institute an action for judicial review of the Board's order in the United States District Court for the District of Columbia or in the United States district court for the judicial district in which the employee resides or is employed. The institution of an action for judicial review shall not operate as a stay of the Board's order, unless the court specifically orders such stay. A copy of the summons and complaint shall be served as otherwise prescribed by law and, in addition, upon the Board. Thereupon the Board shall certify and file with the court the record upon which the Board's order was based. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce the evidence at the hearing conducted under subsection (d) (2) of this section, the court may direct that the additional evidence be taken before the Board in the manner and on the terms and conditions fixed by the court. The Board may modify its findings of fact or order, in the light of the additional evidence, and shall file with the court such modified findings or order. The Board's findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Board's order if it determines that it is in accordance with law. If the court determines that the order is not in accordance with law—*

*(1) it shall remand the proceeding to the Board with directions either to enter an order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, are required; and*

*(2) it may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred by the employee.*

(g) *The Commission or the Board, in its discretion, may proceed with any investigation or proceeding instituted under this subchapter notwithstanding that the Commission or the head of an employing agency or department has reported the alleged violation to the Attorney General as required by section 535 of title 28.*

**§ 7329. Penalties**

(a) Subject to and in accordance with section 7328 of this title, an employee who is found to have violated any provision of section 7323, 7324, or 7325 of this title shall, upon a final order of the Board, be—

(1) removed from such employee's position, in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7322(1) of this title) for such period as the Board may prescribe;

(2) suspended without pay from such employee's position for such period as the Board may prescribe; or

(3) disciplined in such other manner as the Board shall deem appropriate.

(b) The Board shall notify the Commission, the employee, and the employing agency of any penalty it has imposed under this section. The employing agency shall certify to the Board the measures undertaken to implement the penalty.

**§ 7330. Educational program; reports**

(a) The Commission shall establish and conduct a continuing program to inform all employees of their rights of political participation and to educate employees with respect to those political activities which are prohibited. The Commission shall inform each employee individually in writing, at least once each calendar year, of such employee's political rights and of the restrictions under this subchapter. The Commission may determine, for each State, the most appropriate date for providing information required by this subsection. Such information, however, shall be provided to employees employed or holding office in any State not later than 60 days before the earliest primary or general election for State or Federal elective office held in such State.

(b) On or before March 30 of each calendar year, the Commission shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and the President pro tempore of the Senate for referral to the appropriate committees of the Congress. The report shall include—

(1) the number of investigations conducted under section 7328 of this title and the results of such investigations;

(2) the name and position or title of each individual involved, and the funds expended by the Commission, in carrying out the program required under subsection (a) of this section; and

(3) an evaluation which describes—

(A) the manner in which such program is being carried out; and

(B) the effectiveness of such program in carrying out the purposes set forth in subsection (a) of this section.

**§ 7331. Regulations**

The Civil Service Commission shall prescribe such rules and regulations as may be necessary to carry out its responsibilities under this subchapter.

\* \* \* \* \*

## Chapter 83—Retirement

\* \* \* \* \*

## Subchapter III—Civil Service Retirement

\* \* \* \* \*

## § 8332. Creditable service

(a) \* \* \*

\* \* \* \* \*

(k) (1) An employee who enters on *leave without pay granted under section 7326(a) of this title*, or who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8331(1) of this title, which 60 days after entering on that leave without pay, may file with his employing agency an election to receive full retirement credit for his periods of that leave without pay and arrange to pay currently into the Fund, through his employing agency, amounts equal to the retirement deductions and agency contributions that would be applicable if he were in pay status. If the election and all payments provided by this paragraph are not made, the employee may not receive credit for the periods of leave without pay occurring after July 17, 1966, notwithstanding the [second] last sentence of subsection (f) of this section. For the purpose of the preceding sentence, "employee" includes an employee who was on approved leave without pay and serving as a full-time officer or employee of such an organization on July 18, 1966, and who filed a similar election before September 17, 1966.

\* \* \* \* \*

## Chapter 87—Life Insurance

\* \* \* \* \*

## § 8706. Termination of insurance

(a) \* \* \*

\* \* \* \* \*

(e) Notwithstanding subsections (a)–(c) of this section, an employee who enters on *leave without pay granted under section 7326(a) of this title*, or who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8701(a) of this title, within 60 days after entering on that leave without pay, may elect to continue his insurance and arrange to pay currently into the Employees' Life Insurance Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay. The employing agency shall forward the premium payments to the Fund. If the employee does not so elect, his insurance will continue during nonpay status and stop as provided by subsection (a) of this section.

\* \* \* \* \*



# Chapter 89—Health Insurance

## \* \* \* \* \* § 8906. Contributions

(a) \* \* \*

\* \* \* \* \*

(c) (1) An employee enrolled in a health benefits plan under this chapter who is placed in a leave without pay status may have his coverage and the coverage of members of his family continued under the plan for not to exceed 1 year under regulations prescribed by the Commission. The regulations may provide for the waiving of contributions by the employee and the Government.

(2) An employee who enters on *leave without pay granted under section 7326(a) of this title*, or who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8901 of this title, within 60 days after entering on that leave without pay, may file with his employing agency an election to continue his health benefits enrollment and arrange to pay currently into the Employees Health Benefits Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay. The employing agency shall forward the enrollment charges so paid to the Fund. If the employee does not so elect, his enrollment will continue during nonpay status and end as provided by paragraph (1) of this subsection and implementing regulations.

\* \* \* \* \*

## TITLE 18, UNITED STATES CODE

\* \* \* \* \*

# Chapter 29.—Elections and Political Activities

\* \* \* \* \*

## § 602. Solicitation of political contributions

Whoever, being a Senator or Representative in, or Delegate or Resident Commissioner to, or a candidate for Congress, or individual elected as, Senator, Representative, Delegate, or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or is in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person, shall be fined not more than \$5,000 or imprisoned not more than three years or both. *This section does not apply to any activity of an employee, as defined in section 7322 (1) of title 5, unless such activity is prohibited by section 7324 of that title.*

\* \* \* \* \*

**§ 607. Making political contributions**

Whoever, being an officer, clerk, or other person in the service of the United States or any department or agency thereof, directly or indirectly gives or hands over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object, shall be fined not more than \$5,000 or imprisoned not more than three years, or both. *This section does not apply to any activity of an employee, as defined in section 7322 (1) of title 5, unless such activity is prohibited by section 7324 of that title.*

\* \* \* \* \*

**SECTION 6 OF THE VOTING RIGHTS ACT OF 1965**

SEC. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b) unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Commission to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this Act shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of [section 9 of the Act of August 2, 1939,] *subchapter III of chapter 73 of title 5, United States Code, relating to political activities*, as amended (5 U.S.C. 118i), prohibiting partisan political activity: *Provided*, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oath.

**DISTRICT OF COLUMBIA PUBLIC EDUCATION ACT**

\* \* \* \* \*

**TITLE I—FEDERAL CITY COLLEGE**

\* \* \* \* \*

SEC. 103. (a) The Board is vested with the following powers and duties:

(1) To develop detailed plans for and to establish, organize, and operate in the District of Columbia the Federal City College.

(2) To establish policies, standards, and requirements governing admission, programs, graduation (including the award of degrees) and general administration of the Federal City College.

(3) To appoint and compensate, without regard to the civil service laws or chapter 51 and subchapter III of chapter 53 of title 5, United States Code, a president for the Federal City College.

(4) To employ and compensate such officers as it determines necessary for the Federal City College, and such educational employees for the Federal City College as the president thereof may recommend in writing. Such officers and educational employees may be employed and compensated without regard to—

(A) the civil service laws,

(B) chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to classification of positions in Government service),

(C) sections 6301 through 6305 and 6307 through 6311 of title 5, United States Code (relating to annual and sick leave for Federal employees),

(D) chapter 15 and [sections 7324 through 7327] section 7325 of title 5, United States Code (relating to political activities of Government employees),

(E) section 3323 and subchapter III of chapter 81 of title 5, United States Code (relating to civil service retirement), and

(F) sections 3326, 3501, 3502, 5531 through 5533, and 6303 of title 5, United States Code (relating to dual pay and dual employment),

but the employment and compensation of such officers and educational employees shall be subject to—

(i) sections 7902, 8101 through 8138, and 8145 through 8150 of title 5, United States Code, and sections 292 and 1920 through 1922 of title 18, United States Code (relating to compensation for work injuries),

(ii) chapter 87 of title 5, United States Code (relating to Government employees group life insurance),

(iii) chapter 89 of title 5, United States Code (relating to health insurance for Government employees), and

(iv) sections 1302, 2108, 3305, 3306, 3308 through 3320, 3351, 3363, 3364, 3501 through 3504, 7511, 7512, and 7701 of title 5, United States Code (relating to veteran's preference).

\* \* \* \* \*

## TITLE II—WASHINGTON TECHNICAL INSTITUTE

\* \* \* \* \*

SEC. 203. (a) The Board is hereby vested with the following powers and duties:

(1) To develop detailed plans for and to establish, organize, and operate in the District of Columbia the Washington Technical Institute.

(2) To establish policies, standards, and requirements governing admission, programs, graduation (including the award of degrees) and general administration of the Washington Technical Institute.

(3) To appoint and compensate, without regard to the civil service laws or chapter 51 and subchapter III of chapter 53 of title 5, United States Code, a president for the Washington Technical Institute.

(4) To employ and compensate such officers as it determines necessary for the Washington Technical Institute, and such educational employees for the Washington Technical Institute as the president thereof may recommend in writing. Such officers and educational employees may be employed and compensated without regard to—

(A) the civil service laws,

(B) chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to classification of positions in Government service),

(C) sections 6301 through 6305 and 6307 through 6311 of title 5, United States Code (relating to annual and sick leave for Federal employees),

(D) chapter 15 and [sections 7324 through 7327] section 7325 of title 5, United States Code (relating to political activities of Government employees),

(E) section 3323 and subchapter III of chapter 81 of title 5, United States Code (relating to civil service retirement), and

(F) sections 3326, 3501, 3502, 5531 through 5533, and 6303 of title 5, United States Code (relating to dual pay and dual employment),

but the employment and compensation of such officers and educational employees shall be subject to—

(i) sections 7902, 8101 through 8138, and 8145 through 8150 of title 5, United States Code, and sections 292 and 1920 through 1922 of title 18, United States Code (relating to compensation for work injuries),

(ii) chapter 87 of title 5, United States Code (relating to Government employees group life insurance),

(iii) chapter 89 of title 5, United States Code (relating to health insurance for Government employees), and

(iv) sections 1302, 2108, 3305, 3306, 3308 through 3320, 3351, 3363, 3364, 3501 through 3504, 7511, 7512, and 7701 of title 5, United States Code (relating to veteran's preference).

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## ADDITIONAL VIEWS OF CONGRESSMAN HERBERT E. HARRIS II

As a cosponsor of H.R. 8617, and as a member of the Subcommittee on Political Rights and Intergovernmental Programs which has worked for 7 months to produce a fair and comprehensive bill, I am in full support of this legislation. The bill has two significant thrusts: it contains important new protections for Federal and postal employees and it provides them clearly defined rights they do not currently enjoy. H.R. 8617 is, in essence a "bill of political rights" for our 2.8 million Federal and postal employees. I voted to report the bill out of subcommittee and full committee.

There is one provision in the bill, however, of concern to me. Section 7325 prohibits political activities while on duty, in any room or building occupied in the discharge of official duties by an employee, or while wearing a uniform identifying the individual as a Federal or postal employee. As amended by the full committee, exempt from this provision are the President, the Vice President and their staffs.

I can understand the argument that it is unrealistic and impractical to expect the President and Vice President to avoid political activity while on the job. They, it can be argued, are on the job around the clock, and they are the only elected officials of the executive branch. However, I consider it highly inappropriate for the White House staff to engage in political activity while on duty in their capacity as employees of the Chief Executive. I am concerned that not exempting them from this provision would in effect be a congressional "go-ahead" to the White House staff to engage in political activities on the job. It unfortunately puts the Congress in the position of condoning political activity in the White House by White House staffers.

I am concerned that this provision might allow a repeat of the agonizing experience we have come to call "Watergate." Presidential campaigns should be run by campaign committees, and I'm sure the incumbent President will not make the mistakes of his predecessor. But I feel compelled to make it clear that this Member of Congress does not condone campaigns run from behind the White House walls or from the Attorney General's office. I am concerned that the fact that this bill does not expressly prohibit White House staffers from "politicking" on the job might be interpreted as approval of the practice.

Just as Federal and postal employees should be ever-mindful of separating their work from their politics when carrying on "the people's business," so should the employees of the White House.

HERBERT E. HARRIS II.

### MINORITY VIEWS TO H.R. 8617

This legislation, referred to as the "Federal Employees' Political Activities Act of 1975," is, in effect, a repeal of the "Hatch Act."

It constitutes a power grab by Federal union leaders to place conscientious Federal employees at the mercy and calling of politicians at every level of political activity.

#### "HATCH ACT"—1939

The "Hatch Act" of 1939 resulted from the systematic manipulation of the Federal public service under the political aegis of the Democratic National Committee.

In 1939, the creation of the New Deal agencies had left nearly 40 percent of the Federal public service of some 850,000 employees open to political manipulation. The situation existed at the State level where thousands of State employees of emergency relief agencies were paid in full or part by Federal funds.

Spectacular evidence of patronage politics involving these offices during the 1936 and 1938 Congressional campaigns brought forth a cry of indignation from the public, and the Congress responded in passing legislation to provide for an impartial and efficient civil service—free from partisan political activity. This Act placed upon all employees the same restrictions which a series of other Presidents had formerly placed on competitive service employees alone.

#### PRACTICAL EFFECTS OF THE "HATCH ACT"

For 36 years, the "Hatch Act" has served the Federal Government and the public well. It is not a perfect document. It may need some amendments, but it has helped to protect employees by insulating them from pressures that might otherwise force them to engage in political activities not of their own choosing.

By banning certain partisan political activity, such as fund raising, political campaigning, and soliciting votes, the "Hatch Act" has successfully shielded the Federal employees against coercion from their supervisors.

Therefore, Federal employees, except for top appointed officials of the Federal Government, do not owe their appointments to any political party, and do not need to curry the favor of any political party to receive a promotion, assignment, or any other consideration in the Government.

Inherent in the "Hatch Act" is the belief that Federal employees cannot serve both an impartial civil service and a partisan political party or partisan activist group. The goals of both interests are incompatible.

SUPPORT FOR REPEAL OF THE "HATCH ACT"

Support for this legislation has come from some leaders of Federal employee unions affiliated with the AFL-CIO. It has not come from the rank and file Civil Service employees. Federal employee union bosses are determined that their members become more involved in political activity, a move which would substantially increase the influence of Federal and postal union top bosses over the Congress. They, in turn, would then be able to shower their considerable favors upon the political party and office holders who respond to their every legislative request, no matter the principle or cost.

This new found manpower resource would enable Federal employee union officers to brazenly ignore the Campaign Reform Act, which limits campaign expenditures.

Dr. Nathan Wolkowicz, greatly respected President of the National Federation of Federal Employees, which opposes this legislation, charged that organized labor's interest in the bill "is nothing more than the old AFL-CIO pitch for muscle and power. It's a move for money and more organizing influence." We agree.

As late as 1967, the National Federation of Federal Employees sent out a questionnaire to its members on the issue of changes of the "Hatch Act." The results based on 30,000 returns, showed that 89 percent of the total expressed strong support for continuing the Act "as is." Only 1 percent of the total suggested that the Act be repealed.

It would be a grave mistake to believe that Federal employees are behind the move to repeal the "Hatch Act," because the record just does not show that.

Hearings produced no evidence that any but a small minority of Federal employees at any level of Government favor the repeal or emasculation of protections they enjoy under the "Hatch Act". This obviously shows that these employees are displaying better judgment than their so-called leaders, and we in the Congress should be listening to the employees rather than self-appointed bosses.

If this bill were to pass, the Federal Government's merit system would be the casualty to Federal employee labor grab for increased political muscle and power.

SAFEGUARDS WEAK

The bill purports to provide for certain prohibitions against improper political activity, and for penalties to those who violate the law, but no penalty could relieve the pressure felt by ambitious employees to serve the political favorites of their supervisors in order to advance their own careers. Chairman Robert Hampton of the Civil Service Commission testified that "the only real deterrent against coercion is the removal of temptation through restrictions on political activities." There are few cases of coercion brought before the Commission because it is too difficult to prove such a charge.

Chairman Hampton further stated: "equally important with the concern that partisan political activity may detract from the impartiality of the performance of Government employees is the concern

that such activities, being observed by the public, will erode public confidence in the impartial administration of the Federal Government. The problem, of course, is that when the public sees a Federal employee who is prominently identified with partisan politics, and at the same time charged with responsibility for the impartial, non-partisan execution of public duties, it will inevitably have doubts about that employee's impartiality. It seems clear to me that anything which undermines the public's confidence in the impartiality and efficiency of the civil service should be of paramount concern to the Congress."

Illustrations of the potential problems which could be encountered are as follows:

1. Mr. Elliott Gray, Regional Commissioner of the Internal Revenue Service, testified that "agencies such as IRS and a few others have the power under the law to acquire information about individuals which can be highly valuable in advancing or defeating the interests of partisan political candidates." He continued, . . . "contact by such IRS employees with the public for political purposes, for themselves as candidates or for candidates they are supporting, should be equally forbidden. It would produce the same appearance of conflict of interest or potential abuse of position which now applies to forbidden selling, soliciting, or canvassing activities on behalf of a private agency, firm or business. I think the American people would lose confidence in the integrity of an Internal Revenue System which permitted its employees to be avid political partisans one day and expected them to be perceived the next as wholly non-partisan by both political friends and foes."

2. A census employee runs for political office in a geographical area for which he has responsibility. How does the legislation prevent the employee from using the knowledge he has acquired during his tenure? Where does the employee stop and the politician begin? How do you continue to convince the public that their responses to census questionnaires are held in the strictest confidence when the enumerator or another census employer is actively involved in partisan political activity contrary to the views of the respondent?

3. An FBI agent is assigned to investigate alleged illegal activities in a campaign in which he was actively involved. Must he remove himself from the case? If so, can the Government afford the expense and high level of unproductivity as a result of thousands of Federal employees removing themselves from sensitive positions because of potential conflicts of interest? It is unlikely that an FBI agent who is the chief fund raiser for a partisan political party would continue to be viewed by the public as an impartial, objective enforcer of our criminal code.

4. A non-partisan city manager, who also happens to control the purse strings for Federal grant funds, is urged to support a candidate for office. If he selects the wrong candidate, his city will suffer. He cannot afford to guess wrong. The real loser in this situation and similar ones is the public.



#### EMPLOYEE POLITICAL RIGHTS SHOULD BE MAINTAINED

The proponents of this bill would have us believe that Federal employees are "second-class citizens" because of the "Hatch Act." As a matter of fact, those who support this bill are determined to conscript Federal employees into political machines against their independent will.

Under the present law, Federal employees are, however, prohibited from engaging in the partisan political crafts of fund raising, working on behalf of a candidate or political party, and running for elective office, except in certain localities in the country. These restrictions are necessary, to not only protect the employee and the public, but to help to eliminate the emergence of boss politics in the Federal workforce.

The fact of the matter is Federal employees may exercise the same political rights exercised by more than a majority of the citizens in our country. For example, they may register and vote, make voluntary contributions to a political party, express private political opinions, attend as a spectator primary meetings, political meetings, political conventions, wear political badges and buttons, place political stickers on the bumpers of their automobiles, sign a nominating petition, and individually, or collectively, petition Congress or any Member thereof, or furnish information to Members of Congress and Congressional Committees.

#### POLITICAL MACHINES

The "freedom" guaranteed by this bill is the freedom to build partisan political machines within the Executive Branch, machines whose purpose will be to publicly cripple the Executive Branch on any controversial issue and thus eclipse the equality and separation of powers.

Imagine Federal employees openly campaigning against Presidential policies, anticipated vetoes or budget cuts. This bill is a political coup for union leaders and can only result in crippling the Executive Branch.

The very integrity of the Executive Branch requires that its career employees not divide along the lines of legislative debate.

#### RETURN OF POLITICS IN THE POSTAL SERVICE

The Postal Reorganization Act of 1970 removed politics from the Postal Service. It eliminated the appointment of postmasters by the political party in control of the White House, and in its stead made all appointments on the basis of merit.

This decision was applauded by the Congress, and the postal unions which for too long were subjected to this political football game every four years.

We are all aware of the political history of the Post Office Department. It is not an enviable past. No matter how any Member feels about the wisdom of passing the Postal Reorganization Act, we think it is generally agreed that the Congress was right to remove political influence from the Postal Service. To reintroduce politics into the Postal Service would be a giant step backwards.

#### PUBLIC CONFIDENCE CRISIS

There presently exists a crisis of public confidence in our government officials. This legislation if enacted would undermine and destroy the people's confidence in their system of government by returning Federal employment to the Jacksonian spoils system. It would cause Americans to question and examine any activity of the Federal Government for political motivations. The government must have the voluntary cooperation from its citizens in order to function on a day-to-day basis.

This point was made abundantly clear by a former regional director of the IRS when he suggested that this bill would mean the end of a voluntary system for the collection of taxes because every audit would be regarded as being politically instigated. Furthermore, it would severely hamper the investigative capability of all Federal law enforcement agencies which have been dependent to some extent on the voluntary cooperation of individuals in obtaining information regarding criminal activities.

Every reliable barometer of public opinion in the past several years has conclusively shown that elected public officials are held in the lowest possible esteem by the public. The public is equally concerned about the growing militancy of public unionism which has increased its membership by 151 percent from 1951 to 1972, payrolls by 596 percent, and strikes by public employees by 1000 percent. In this political climate, it is incredible that we in the Congress are being asked to approve what could become a new spoils system.

#### SUPREME COURT VIEW—LIMITED POLITICAL ACTIVITY

As recent as 1973, the U.S. Supreme Court, in its decision on the constitutionality of the Hatch Act stated, "Our judgment is that neither the first amendment nor any other provision of the Constitution invalidates a law . . . barring political conduct by federal employees." And repeal of the Act would run contrary to the judgment of history . . . that it is in the best interest of the country, indeed essential, that federal service should depend upon meritorious performance rather than political service, and that the political influence of federal employees on others and on the electoral process should be limited." And it has been, the opinion continues, "the judgment of Congress, the Executive and the country—that partisan political activities by federal employees must be limited if the Government is to operate effectively and fairly."

#### A NECESSARY LOOK ABROAD

Perhaps one should take a brief glimpse at the effects of union control on foreign nations. Italy, Great Britain and Argentina have allowed the unions to effectively destroy the economies of each of their respective countries. Great Britain has literally been brought to its knees in current labor negotiations with employees in the nationalized coal industry. Prime Minister Wilson has stated that the country will

be bankrupt if union demands are not tempered. It should be remembered that these employees are public employees. The members should have some recollection of the crippling Italian postal strike which resulted in the destruction of tons of mail. A recent Art Buchwald column suggested that the Italian Government should provide "dial-a-strike" service to its citizens. Citizens could call a number which would inform them of the strikes that would be effecting them that day. The Argentinian Government is currently in a power vacuum because of union pressures demanding the resignation of governmental cabinet officials which were acceded to rather than risk another revolution. The United States has been spared this union abuse of power by not allowing Federal employee unions to blackmail the Government into submission.

LEGISLATION ILL-TIMED, ILL-CONCEIVED

This legislation is ill-timed, ill-conceived, and is bad for the employees, the merit system as we know it to be, and the general public. It must be summarily rejected unless we are willing to forfeit an independent, impartial civil service for the imposition of politics at every level of activity in the Federal Government.

EDWARD J. DERWINSKI

### SEPARATE VIEWS

The "Hatch Act" needs to be amended to make it more effective in protecting Federal employees from those who would coerce them into forced participation in partisan political favoritism in the delegation of their duties. The American people have a right to demand that their Government be fair and impartial in the conduct of its business. We are also interested in making certain that every Federal Employee will reasonably be able to participate in political activity providing that participation does not infringe on the rights of other employees and does not conflict with his public responsibilities.

We believe that the following sections of this legislation are sound and should be adopted:

1. The right to participate voluntarily in the political activities which are not expressly prohibited by law. However, we would hasten to add that in order to be truly *voluntary* a Federal employee must be protected from coercion from individuals outside the Federal service with the same perseverance that Federal employees are protected from those within Government.

2. The items below have been strictly prohibited only as to the conduct of Federal employees: 1) Use of official authority to influence another employee's vote; 2) coercion of a fellow employee to engage in political activity; 3) use of funds to influence Federal employees' vote; 4) contributions to supervisors or in Government buildings; and 5) political activity while on duty in Government buildings, or in uniform. We believe that these restrictions will effectively protect employees from the coercion of other Federal employees but only if they are aggressively enforced. We would also suggest that sections 7323 and 7324 be made applicable to all individuals who would attempt to influence or solicit Federal employees.

3. An independent board is established with the functions of adjudicating and imposing penalties for violations of the law including removal, suspension, or lesser penalties at the discretion of the Board. Witnesses at hearings requested that a broader range of alternatives should be included in the legislation in order that the punishment should fit the crime. Formerly, the employee was either dismissed or given thirty days suspension.

4. This legislation would provide employees with the right of judicial review of adverse decisions which are nonexistent under the "Hatch Act."

5. We believe that an aggressive educational program is essential to insure that all Federal employees will be informed in clear and explicit language of their rights and responsibilities under the Act. One of the major problems discovered in hearings was the lack of knowledge and misinformation as to what the Hatch Act prohibited or permitted. Over three thousand administrative rulings of the Civil Service Commission have confused the issue and in effect "chilled" the per-

missible forms of political expression under the Act. This amendment mandates that every Federal employee receive a letter each year at least 30 days prior to every Federal election.

The following provisions should be deleted or amended:

1. Section 7326 would allow a candidate for elective office to remain on the Federal payroll while campaigning. Under the wording, he must request that he be placed on a leave without pay basis. The witnesses before the subcommittee were almost unanimous in their support for mandatory leave without pay at a date certain before the election. We would suggest at least 30 but not more than 90 days prior to the election.

2. Section 7328 does not provide any time limitation on the CSC for the investigation of reports and allegations of prohibited activities. We would suggest that the CSC be given 60 days to investigate alleged violations or that they provide the Board with a written report containing specific reasons for the extension of time. Recent testimony has indicated that there are only 187 investigators for the CSC throughout the country and that these people are severely overworked with the over 16,000 complaints which are filed with the Commission each year. It should be clearly mandated that the CSC hire additional investigators to handle the increased workload and guarantee a prompt determination of the case. Justice delayed is justice denied.

An additional problem in this section is the sweeping grants of immunity from criminal prosecution in any court which are granted to those who would testify even at the defendant's request. Potentially, conspirators could testify at each others request in hearings and defeat more serious criminal prosecutions which are concurrently being conducted by the Justice Department. We would suggest that the Attorney General be consulted before any grant of immunity is given.

The bill, as passed out of the Committee, is an unfair burden on a career civil servant. It would mean that a conscientious Federal employee could be pressed into political action for survival. Let's maintain the goals of civil service and defeat this political bill.

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